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ABSTRACT

This handbook describes procedures for school-district reorganization in California. Following the introductory chapter, chapter 2 offers a historical overview of school-district reorganization in California. Chapters 3 and 4 outline the organization and responsibilities of the county committee and the role and responsibilities of the State Board of Education. The fifth chapter provides a step-by-step process of forming or abolishing school districts, consolidating school districts, transferring territory, and unifying school districts. A series of flowcharts explain the 25 percent petition, the 10 percent petition, the state criteria for approvals, and the guidelines for administering the California Environmental Quality Act regulations. Chapter 6 details the requirements of the Education Code Section 35753 governing reorganization proposals. Chapter 7 lists the various effects of a district organizational change on a school district and its employees, property, funds, obligations, bond indebtedness, and revenue limit. The requirements for elections and public hearings are listed in the eighth chapter. Chapters 9 and 10 describe the new governing board and its operations and other functions of the county committee. The final two chapter summarize the appeals process related to transfers of territory and procedures for reorganizing community colleges. Appendices contain state regulations; a list of chartered counties, cities, and school districts; and sample forms. (LMI)

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SCHOOL DISTRICT ORGANIZATION HANDBOOK

Issued by the
California State Board of Education
Prepared by
California County Superintendents
Educational Services Association
Published by the
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Sacramento, 1993

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Officially approved by the

California State Board of Education

Prepared cooperatively by the

California County Superintendents Educational Services Association

and the

School Business Services Division California Department of Education

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Notice

The guidance in this handbook is not binding on local educational agencies or other entities or persons. Except for the statutes, regulations, and court decisions that are referenced herein, this handbook is exemplary, and compliance with it is not mandatory. (See Education Code Section 33308.5.)

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PREFACE

School districts are taken for granted by the public, which sees the districts as being relatively unaffected by events taking place around them. But school district boundaries are changed, territory is transferred from one school district to another, districts are divided or combined with their neighbors, and some districts are terminated. This handbook describes how those changes come about.

This handbook was developed through the joint efforts of the California State Board of Education, the California County Superintendents Educational Services Association, and the California Department of Education. It is intended as a resource for county committees on school district organization, school district governing boards and administrators, and interested members of the public. It was developed to aid in making decisions on the very complex issues that arise in school district organization.

The sponsors of and contributors to this handbook hope that the readers of this publication find it a useful resource and will offer suggestions for future editions or revisions. A standing committee will meet annually to consider revisions resulting from input of the readers and to incorporate changes required by law. Any comments or suggestions should be sent to Dan Reibson, Field Representative, California Department of Education, School Business Services Division, 560 J Street, Suite 170, Sacramento, CA 95814.

ACKNOWLEDGMENTS

The contributions of several persons and organizations to the development of this handbook are gratefully acknowledged. Major sections of the handbooks on school district organization produced by the San Bernardino and Santa Clara county offices of education were revised and updated by their authors and incorporated into this handbook. For the San Bernardino County Office, Augie Ramirez was the major contributor; for the Santa Clara County Office, Larry Shirey and Rick Cornish were the major contributors. Marc Forgy of the Los Angeles County Office of Education also contributed significantly to this handbook.

Editorial support, coordination, and facilities were provided by Dale Holmes, Superintendent, and Elliott Duchon, Assistant Superintendent, Office of the Riverside Superintendent of Schools. Don Kenny, former Riverside County Superintendent of Schools, assembled and edited the document. Herb Farrar, Imperial County Superintendent of Schools, acted as liaison on behalf of the California County Superintendents Educational Services Association and was chair of that organization's committee for the handbook.

Special thanks are due to Greg Geeting, Special Assistant to the State Board of Education, for his support and assistance in developing the handbook. Major contributions were also made by Department of Education staff members Roger Wolfertz, Assistant General Counsel; and Dan Reibson and Tony Turcotte, Field Representatives.

Lastly, Michelle Cooper of the Riverside County Office of Education is acknowledged for her willingness to fit the typing of this project, and its several drafts, into her regular work schedule.

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CHAPTER I

INTRODUCTION

This chapter lists the source documents, laws, and regulations that are the foundation for the other chapters in this handbook. There are also definitions of some of the more common terms used throughout the document. The last section in the chapter discusses the process by which certain functions listed as the responsibilities of the county board of supervisors may have been transferred to the county superintendent of schools.

I. INTRODUCTION

A. Foundations of This Handbook

This handbook focuses on legal procedures and provisions governing school district reorganization and upon the decision process which brings about a reorganization action. (Education Code Section [hereinafter EC] 35511)

These actions are governed generally by six major segments of the California Education Code:

1. Part 2, Sections 1000 to 1097 and 1500 to 1630, describing the election, organization, and funding of county boards of education, which have the major role in the reorganization process
2. Part 3, Sections 4000 to 4024, describing the organization and functions of the County Committee on School District Organization and the transfer of those functions to/from the County Board of Education
3. Part 4, Sections 5000 to 5442, concerning district governing board members, elections, and trustee areas
4. Part 21, chapters 3 and 4, including Sections 35500 to 35785, describing the procedure and requirements for the reorganization of districts
5. Part 25, chapters 4 and 5, Sections 44803, 44847, 44902.1, 44902.2, 44903, 44904, 45119, 45120, 45120.1, and 45121, concerning employees in a reorganization action
6. Part 46, Sections 74000 to 74295, concerning the reorganization or formation of community college districts

Other codes of legislation, such as the Government Code and the Elections Code, are also referenced. Note that legal references appear in parentheses following the paragraphs to which they apply. Education Code references will be shown as (EC ___); other legal references are spelled out within the parentheses.

Education Code sections numbered between 1 and 32999 apply to both K–12 and community college district reorganization. Education Code sections numbered above 33000 and less than 66000 apply to K–12 districts only. Community colleges are referenced in various places in the Education Code in sections numbered 66000 or above. See Chapter XII in this handbook for the major provisions relating to reorganization of community college districts.

The regulations regarding school district organization are in Appendix A, "State Board of Education Regulations and Criteria Regarding School District Reorganization."

It should be noted that the Education Code does not address every issue of the school district reorganization process that may occur. Moreover, the Education Code (and, subsequently, the information contained in this handbook) is subject to change by the Legislature. It is recommended that county counsel (or other legal counsel) be consulted whenever school district reorganization issues arise.

B. Definitions

1. "Actions to organize or reorganize districts" means actions to form, dissolve, or lapse a school district or community college district, to annex all or part of the territory of one district to another district, to transfer all or part of one district to another district, to unify or deunify a school district, or to otherwise alter the boundaries of a school district. (EC 35511) See additional elements in EC 74014.

2. "Lapsation" means the discontinuance or cessation of a school district because of average daily attendance less than statutory minimums specified in EC 35780 and annexation to an adjoining school district. (EC 35783) There is no procedure for the lapsation of community college districts.

3. "County committee" means the county committee on school district organization or a county board of education organized and acting as the county committee as provided for in Article 1 (commencing with Section 4000) of Chapter 1, Part 3, of the Education Code. (EC 35512, 74015)

4. "Districts" means school districts of every kind or class. (EC 35514)

5. "Districts of the same kind" means districts having the same general grade level groupings. All elementary school districts are districts of the same kind, all high school districts are districts of the same kind, all community college districts are districts of the same kind, and all unified districts are districts of the same kind. (EC 35513)

6. "Component district" means either of the following:

   a. An elementary district which is included within a high school district (EC 35515)

      or

   b. A high school or unified school district which is included within a community college district. (EC 74012)

7. "State-aided district" means a district to which a conditional or final apportionment has been made under the state school building aid laws. (EC 16150)

8. "Acquiring district" means a district in which all or a part of a state-aided district or applicant district has been included. (EC 16150)

9. "Original district" means any state-aided or applicant district included in whole or in part in an acquiring district. (EC 16150)

10. "Former district" means a district which has been wholly included in another district. The boundaries of a former district are those of the district as it existed immediately prior to being wholly included in another district. (EC 35516, 74013)

11. "Inhabited territory" means territory in which 12 or more registered voters reside. All other territory is deemed uninhabited. (Government Code Section 56046)

12. "Nondistrict territory" means a high school or unified school district which is not included within any community college district.

13. "Affected districts," for community college districts, means any component school district or nondistrict territory within the territory to be transferred, annexed, or formed, or both, or any community college district subject to an action to reorganize districts. (EC 74016)

C. Transfer of Functions

In many counties, the duties or functions of the county board of supervisors relating to matters of school district organization have been transferred to the county board of education, by resolution pursuant to EC Sections 1043 and 1080. Therefore, duties or functions that are described in this handbook as a responsibility of the board of supervisors may actually be the responsibility of the county board of education in certain counties. Legal counsel should be consulted where there are questions relating to this topic in any individual county.

See Chapter III for discussion of transferring the duties of the County Committee.

CHAPTER II

HISTORY OF SCHOOL DISTRICT ORGANIZATION IN CALIFORNIA

This chapter will be useful to laypersons, school district administrators, and county committees on school district organization alike to gain an idea of the long-term history of the changes in school district organization. The chapter discusses the various methods used over the years by the Legislature to attempt consolidation and overall reduction in the numbers of school districts.

II. HISTORY OF SCHOOL DISTRICT ORGANIZATION IN CALIFORNIA

A. Brief History of School District Organization

1. Early Organization

School district organization began with the provisions for school support established by the framers of California's Constitution in 1849. With increases in population and movement from an agricultural-based economy, the educational needs in the state grew at a rapid pace. By 1935 there were over 3,500 school districts in the state.

About that same time, new laws made it possible to combine elementary and high school districts into a single district under one board of education defined as a "unified" district.

In addition to the process of unification, another common method of change in district organization had been "annexation." This process has been referred to as "unionization" or "consolidation" in the past, but the basic meaning is the same. Annexation occurs when two or more like districts (elementary, high school, etc.) join to form a single district through the process of reorganization.

2. Process of Reorganization

Modern school district reorganization in California began in 1945 with the passage of the Optional Reorganization Act, drafted by the State Reconstruction and Reemployment Commission. This Act addressed the problems that resulted from the past practices of school district organization. One result of the Optional Reorganization Act was the formation of the Commission on School Districts. This Commission was created to conduct surveys, establish committees, and make recommendations to the State Board of Education.

By 1945, the number of school districts in the state had been reduced to 2,568. In 1949, the Commission on School Districts was disbanded, and the responsibility for school district organization fell to the State Board of Education. Provisions were made for counties to carry on the work the Commission had started. To assist the counties in this effort, the Department of Education established the Bureau of School District Organization, which acted as an advisory group within the Division of Public School Administration. In the four years the Commission on School Districts was active, it was able to reduce the number of districts another 18 percent, to a total of 2,111 districts.

3. Early Attempts to Establish Incentives for Reorganization

Among the recommendations of the Commission on School Districts was a proposal that unified districts be rewarded with a higher level of support. Incentives for unification included state assistance for capital outlay and transportation.

In 1950, a law was enacted to provide state funding for the excess cost of transportation incurred as a result of unification, including the purchases of buses. The funding was limited to the first five years of the existence of a unified district.

In 1951, the funding level for unified districts was increased by $5 per unit of average daily attendance for the first five years of existence. This amount was hardly enough to interest any but the most needy of school districts.

In 1953, the funding level of a unified district formed by county committee recommendation was increased by 5 percent in the first year; but each year thereafter it was diminished by 1 percent until the district was back to normal funding levels. This change did provide a substantial increase for the first year but was temporary and diminishing in value. It did have some beneficial influence, and a number of districts were formed with the temporary increased support in mind.

In 1959, the Legislature provided both an incentive and a deadline in the form of a new law. The incentive was that unless reorganization was achieved locally, the Department of Education would initiate the action. The new statute required that on or before September 15, 1964, each county committee must have submitted to the State Board of Education a master plan of school district organization for its county—to consist either of a system of unified districts or of such organization as would constitute an intermediate step to unification. If the county committee failed to submit such a plan, the Department of Education would do so by September 15, 1965. This action speeded up county committee activity greatly. It caused an increase in the number of plans reaching the State Board, and there was an increase in the number of proposals approved by electors.

In spite of these legislative attempts at reorganization, the reluctance of people to accept unification without perceiving tangible financial benefits was considerable; but progress was made in the reduction of the number of districts in the state. From 1935 to 1945, the total number of school districts in California decreased from 3,500 to 2,508. From 1945 to July 1, 1964, the total number of elementary and high school districts was reduced from 2,508 to 1,325. Unified districts increased in number from 46 to 164.

4. Reorganization and Assembly Bill 145

In 1964 major new legislation was passed that offered new incentives for districts that reorganized and new disincentives for districts that chose not to reorganize in the form of a bill introduced by Assemblyman Jesse Unruh. This bill, AB 145, provided a mandate for unification but was primarily a financial measure. Unified districts were to be formed according to plans formulated by the State Board of Education.

This bill made its position clear by providing a statement of intent that the unified district should be the ultimate form of district organization in the state. Thus

minimum standards for both numbers of students and geographical size were established.

A school district could be divided into two or more unified districts. However, each resulting district must be adequate in size and financial ability and not deviate materially in wealth (assessed valuation) per pupil in average daily attendance (ADA) from the district out of which they were created. If an exceptional situation existed to a degree that would justify approval, such a division was possible.

To encourage voters to form unified districts, AB 145 provided that the funding level for qualified unified districts would be increased by $15. In addition to increasing support for unified districts, for each elementary district that voted in favor of unification, even if the whole proposition failed, the funding level of that district would be increased by $15. The law required that unification had to be along high school district boundaries, but each elementary district had to have a "yes" vote. If one district voted "no," the unification failed; but those voting "yes" received a bonus.

These were to be permanent increases in the level of support. In 1967, the incentive was increased to give $20 per ADA "for more efficiently organized districts."

In the event that voters in a given territory failed to form a unified district, thereby not placing all the wealth of the territory equally behind all its pupils, there would be equalization of local resources. Territory in which an unsuccessful unification election had been held was automatically placed in what is referred to as the "areawide support program." An "areawide" tax was levied of $1 times the school district assessed valuation, and revenues were divided among all students on an ADA basis in the total school district.

The Legislature granted a series of reprieves from this mandatory election until 1972, when the Master Plan in each county was voted on (with few exceptions). Through June 30, 1974, the total number of elementary and high school districts in the state was reduced to 1,049, a decrease of 276 from 1964, and the total number of unified districts increased from 163 to 253.

5. Results of Reorganization

The impact of voluntary reorganization has not been dramatic. From 1971-72 through 1991-92, the total number of school districts declined as follows:

Change in Number of Districts

Type of district	1971-72	1991-92	Change
Unified	242	291	49
Elementary	708	609	-99
High School	117	109	-8
Total	1067	1009	-58

Since 1931-32, when there were 3,595 school districts in California, the total number of districts has decreased by 2,586, or 72 percent. The pace of change in school district organization may have slowed, but it still is proceeding at a steady rate.

The chart on the next page shows the number of each type of school district in California, by selected years, since 1932. It also indicates the total number of districts in each of the years shown.

B. California School District Organization Data: Number of California School Districts, by Type and by Selected Years

Year	Unified districts	Elementary districts	High school districts	Total
1932				3,579
1935-36	0	2,735	295	3,030
1940-41*(1)	40	2,512	265	2,817
1945-46	46	2,248	260	2,554
1950-51	67	1,779	245	2,091
1955-56	92	1,533	233	1,858
1960-61	119	1,316	221	1,636
1963-64*(2)	155	1,179	201	1,535
1964-65	164	1,129	196	1,489
1965-66	191	998	168	1,357
1966-67	228	829	132	1,189
1967-68	235	752	120	1,107
1970-71	240	712	118	1,070
1971-72*(3)	242	708	117	1,067
1973-74	251	689	114	1,054
1974-75	253	681	115	1,049
1975-76	254	679	115	1,048
1976-77	258	669	115	1,042
1977-78	260	669	115	1,044
1978-79	262	666	115	1,043
1979-80*(4)	263	664	115	1,042
1985-86	272	645**(a)	112**(b)	1,029**(c)
1986-87	278	635	112	1,025
1987-88	279	633	112	1,024
1988-89	283	623	111	1,017
1989-90	287	613	110	1,010
1990-91	288	612	110	1,010
1991-92	291	609	109	1,009
1992-93	296	601	109	1,006

*(1) Passage of Coterminous Boundary Laws

*(2) Passage of Unification Laws

*(3) Last Mandated Unification Election

*(4) Passage of Voluntary Reorganization Laws

**(a) 78% decrease in elementary districts in 50 years

**(b) 63% decrease in high school districts in 50 years

**(c) 72% decrease in number of districts in 50 years

CHAPTER III

ORGANIZATION AND RESPONSIBILITIES OF THE COUNTY COMMITTEE

The county committee on school district organization has a major role in the review and approval of proposals to change school district organization in the county. This chapter discusses how the members are selected, how committees should function, and how they are financed. In about half of the 58 counties in the state, the functions of the county committee on school district organization have been transferred to the county board of education. A list of counties in both categories can be found at the end of this chapter.

This chapter will be of greatest help to county committee members and to county superintendents of schools. They can use this chapter to aid them in conducting elections and meetings for the county committees.

III. ORGANIZATION AND RESPONSIBILITIES OF THE COUNTY COMMITTEE

A. General

There is in each county, except a county which is also a city and county, a county committee on school district organization. (EC 4000) As shown in Table III-A, half of the counties have committees which are bodies separate from the county board of education. In the remainder of the counties, the county board of education acts as the county committee on school district organization by order of the State Board of Education. (EC 4021) Where all of the territory of a county superintendent of schools is included in one unified school district, the governing board of the unified school district serves as the county committee. (EC 4001)

1. Transfer of Duties to the County Board of Education

   Section 4020 of the Education Code provides that the duties of the county committee on school district organization may be transferred to the county board of education. That section states that, upon petition by the county committee or the county board, the State Board of Education may transfer the duties and must notify the petitioning agency within 90 days after receiving the petition. The duties have been so transferred in 31 of 58 counties. (See Table III-A.)

   Procedure

   In reviewing such transfer petitions, the State Board of Education is to consider several factors:

   a. What was the recommendation of the county committee?

   b. What was the recommendation of the county board of education?

   c. What has been the workload for school district organization in recent years in the county, including:

      1) Number of territory transfers?

      2) Number of unifications?

      3) Number of annexations?

      4) Number of cases in which school district trustee areas have been established?

2. Reestablishment of a County Committee

   Section 4022 of the Education Code, effective July 1, 1991, provides that a county committee on school district organization may be reestablished and duties transferred from the county board of education to the county committee. That

endeavor may be initiated by action by the county board of education or by a majority of the school district governing boards in the county.

In considering such action, the State Board of Education may consider several factors:

a. What has the school district organization activity been in the county since the duties were transferred to the county board? For example,

   1) Number of territory transfers?

   2) Number of new districts formed?

   3) Number of annexations?

   4) Number of cases in which school district trustee areas have been established?

b. If initiated by a majority of the school districts in the county, what are the views of the remaining districts regarding the requested transfer of duties?

c. What is the opinion of the county board of education to the petition?

d. What would be the estimated cost to reestablish the 11-member committee based on any recent reorganization activity in the county?

e. What were the reasons given by the petitioning districts for reestablishing the committee?

3. State Board of Education Action

   A proposal for transferring the duties to the county board or for reestablishing the county committee is considered by the State Board of Education at a public hearing.

   a. The State Board of Education considers the proposal and the California Department of Education's recommendation.

   b. The State Board of Education may conduct a public hearing on the matter, although a public hearing is not required by law. By practice, the parties involved may address the Board on request.

   c. Action by the State Board of Education is final.

   d. If the State Board of Education votes to reestablish the county committee, the first meeting of the county committee must be held within 30 days. (EC 4023)

B. Responsibilities

The county committee is the local initiator, coordinator, analyst, facilitator, and arbitrator for the reorganization of school districts. It formulates plans, responds to

petitions, conducts public hearings, develops and releases information, and analyzes proposals throughout the approval process of a reorganization. For proposals relative to transfers of territory, where state approval is not required, the county committee gives final approval or disapproval, subject only to appeal to the State Board of Education. (EC 35710.5)

The county committee is charged with the duty of studying the school district organization of its county and shall, under the direction of the State Board of Education or pursuant to a petition by local electors, hold hearings and formulate plans and recommendations for the unification, other reorganization or lapsation of the districts in the county, including, if necessary, a portion of one or more adjacent counties. (EC 35720-35724, 74105 et seq.)

Except for a school district governed by a board of education provided for in the charter of a city or city and county, the county committee has "the power to establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, adopt one of the alternative methods of electing governing board members, and increase to seven or decrease to five the number of members of the governing board" in any school district or community college district. (EC 5019) (For a listing of chartered counties, cities, and school districts, see Appendix B.)

Specific tasks of the county committee regarding district organization are shown in the charts in this manual. See especially the quick-reference charts in Chapter V. They depict the approval processes for the various types of petitions and plans.

The county committee is subject to the legal requirements expressed in the Education Code and to policies and regulations adopted by the State Board of Education (Title V, California Code of Regulations). County committees are given great latitude within which to work so that each local situation can be considered within its own context. Each proposal made by the county committee is to be considered in light of its appropriateness to the local area concerned.

On or before September 15, 1963, each county committee had to prepare and submit to the State Board of Education a master plan for including all the territory of the county in school districts so that each school district had to provide for a kindergarten or grade one through grade twelve educational program. This date was extended for certain counties up to September 15, 1964. If a county failed to submit a master plan by the extended date, then the California Department of Education had to prepare the master plan for the county by September 15, 1965.

When the Education Code provisions pertaining to school district organization were rewritten in 1980, it was the legislative intent to utilize the organization of districts as they existed on January 1, 1981, and the master plan for school district organization in each county as it existed prior to January 1, 1981, or any approved updated version of the master plan as the basis for future reorganization of districts in each county. (EC 35500)

The only other reference to the county committee and master plan occurs in Education Code Section 35707, which states that the county committee must report whether a proposed unification, in the opinion of the committee, would be compatible with any master plans submitted by the county committee and approved by the State Board of Education. In the majority of reorganization proposals submitted to the State Board of Education over the past 12 years, the county's master plan had to be revised to accommodate the approved reorganization.

Currently, there are no legal provisions requiring that a county committee revise its original master plan. Because some county committees have found their original master plans obsolete, they have revised them from a specific plan that recommended reorganization along high school district boundaries to a plan that does not delineate a specific recommendation but rather provides for a broad, general plan of reorganization.

C. Membership

1. Selection of County Committee Members

   If there are fewer than six districts or community college districts under the jurisdiction of the county superintendent of schools, the superintendent must determine the number of county committee members and must appoint the members. In all other counties, the county committee must have 11 members.

   The members must be elected to the committee by an annual meeting of school district trustee representatives that shall be called by the county superintendent of schools and shall be held between October 1st and December 1st of each year. The governing board of each school district must elect a voting representative at its initial meeting. (EC 4002, 4003, 4005, 35023, 72403)

   To increase participation of school district voting representatives in the county committee election, the Legislature recently authorized an option for the school district voting representatives to vote for county committee members by means of an absentee ballot. (EC 4006)

2. Nomination Process

   The nomination process for members of the county committee varies, depending upon the bylaws of each school district organization committee. In some counties, any registered voter may be nominated by a school board or may nominate himself or herself, usually by a certain date before the annual caucus. The nomination may require the filing of a letter of candidacy and a biographical data sheet with the county superintendent prior to the election date. These are then sent to all board representatives prior to the election date. In other counties, nominations must be made by school board representatives and may be accepted up to and at the meeting.

3. Exclusions; Area Represented; Terms

   Any registered voter residing in the appropriate supervisorial district may serve as a county committee member. Governing board members of school districts may serve concurrently as a school district trustee and county committee member. Neither the county superintendent nor any member of his/her staff nor any employee of a school district or community college district may be a member of the county committee. (EC 4007) At least two members must be elected from among the qualified electors of each county supervisorial district. The term of office of each member must be four years. (EC 4008, 4009)

4. Vacancies

   Vacancies on the county committee are created by any of the events described in Section 1770 of the Government Code. (EC 4006)

   a. Although it is not specifically addressed in law, many county committees require that if a county committee member chooses to resign, the resignation will be in writing and submitted to the Secretary of the County Committee or his/her designee. The vacancy becomes an established fact upon the date indicated in the written resignation or upon receipt of the written resignation if no date is indicated.

   b. Should a committee member cease to be an inhabitant of the supervisorial district for which he/she was chosen or appointed, the office becomes vacant. A member may cease to be an inhabitant if the member moves out of the supervisorial district in which he/she was elected.

      If any change in the boundaries of a county supervisorial district in the county affects an incumbent member of the county committee, the affected member must serve the remainder of his/her term of office. (EC 4008)

   c. Should a committee member cease to discharge the duties of office for the period of three consecutive months, except when prevented by illness, the office becomes vacant.

   d. Should a cause for vacancy, other than a member's resignation, come to the committee's attention, the committee chairperson should inform the affected member of the cause. Should the member fail to dispute the cause for vacancy, then the vacancy should be declared at the next regular county committee meeting.

      Appointments to fill vacancies in the committee membership must be made by the remaining members of the committee or, if they fail to fill such vacancies within 70 days or if the vacancy occurs in a county having less than six school districts, by the county superintendent of schools. Persons appointed to fill such

vacancies must hold office for the duration of the unexpired term. (EC 4002 and 4006)

5. Compensation to Members

   The members of the county committee must serve without pay but must be reimbursed for their actual and necessary travel expenses incurred in the performance of their duties. (EC 4010)

D. Organization and Procedures

1. Officers, Meetings, Quorum

   Within 30 days after the election or appointment of the county committee, the county superintendent of schools calls the first meeting of the county committee for the purpose of electing a chair and a vice-chair. The county superintendent of schools or his/her designee must act as the secretary of the county committee but must not be a member of the committee. (EC 4012) Meetings of the county committee may be called by the chair or by a majority of its members. (EC 4013) A majority of the county committee (e.g., six members or more) will constitute a quorum for the transaction of business. (EC 4014)

2. Agenda

   The secretary of the county committee must prepare the agenda for all meetings. Items for the agenda may be suggested by committee members as well as by any county or school district employee or any local citizen. During the county committee meeting, any and all subjects on the agenda may be heard by the committee. There must be no discussion of, nor action on, items not listed on the agenda for the meeting—unless the provisions of Government Code Section 54954.2 (b) are enacted.

3. Meeting Procedure

   California state law requires that all actions of the county committee must be taken openly and that all of its deliberations must be conducted openly. (Government Code Sections 54952 and 54952.5) Therefore, the county committee meeting must be conducted in accordance with Sections 54950-54962 of the Government Code, known as the "Brown Act." (See Appendix C.)

   A common practice for county committees is that, when not in conflict with the county committee's bylaws or any applicable law, rule, or regulation, the provisions of *Robert's Rules of Order, Newly Revised*, constitute the parliamentary processes of the county committee, except that the chair may discuss and have a vote on all matters before the committee.

   Another frequent practice is that any recommendation to change the boundaries of any or all of the trustee areas of the county board of education, or recommendations

to increase or decrease the number of members of the county board of education, requires adoption by a two-thirds vote of all members entitled to vote (e.g., eight or more affirmative votes). (EC 1002)

In addition to these procedures, the bylaws of some county committees specify that all motions which will affect the operation of any school district in the county require adoption by a majority of all members entitled to vote (e.g., six or more affirmative votes).

4. Minutes

   A further recommendation is that the official minutes of the county committee meeting should be recorded by the secretary of the committee. The secretary should mail a copy of the minutes of each meeting to each member of the committee prior to the ensuing regular committee meeting. The minutes should contain the exact wording of all motions made and the names of the maker and seconder of each motion. The voting result should be recorded by number of ayes and nays; or, if a roll call vote was requested, the vote of each member should be recorded as cast.

   The minute books for the county committee must be open to inspection by the public at the office of the county superintendent of schools during the usual business hours. (Public Records Act, Government Code Section 6250 et seq.) Such inspection should be under the supervision of an employee of the county office of education.

5. Bylaws

   Although not required by law, most county committees on school district organization have adopted rules and regulations not inconsistent with the laws of this state, for their own governance.

E. Administration and Finance

In order to carry out its activities, the county committee relies on the county board of education and the county superintendent of schools for support. All expenses necessary for the county committee to comply with the provisions of the Education Code may be provided by the county board of education. Any expenses of the county superintendent of schools, the county board of education, and the county committee on school district organization required by any section of the Education Code must be paid from the county general fund. (EC 1510) When a county board of education is fiscally independent, the county school service fund is responsible for county committee expenses. (EC 1604, 1621)

The county superintendent of schools may employ personnel to (1) conduct research in connection with the activities of the county committee and (2) develop systems, procedures, and methods for applying such research findings to improve the effectiveness of those activities. (EC 1943)

The county counsel, or if there is no county counsel, the district attorney, may provide legal services to the county committee. In the event the county board of education is fiscally independent of the board of supervisors, the county board may provide the committee with private legal counsel to be selected by the committee. (EC 4011)

TABLE III-A
County Committees on School District Organization . . .
Separate County Committee or County Board of Education as County Committee

In each county there exists a county committee on school district organization. In some counties, the county board of education acts as the county committee on school district organization. In the remainder of the counties, the county committee is a body separate from the county board of education.

Counties with a Separate County Committee on School District Organization	Counties in Which the County Board Serves as the County Committee
Colusa	Alameda
El Dorado	Alpine
Fresno	Amador
Humboldt	Butte
Kern	Calaveras
Lassen	Contra Costa
Los Angeles	Del Norte
Marin	Glenn
Merced	Imperial
Mono	Inyo
Nevada	Kings
Orange	Lake
Placer	Madera
Riverside	Mariposa
San Benito	Mendocino
San Bernardino	Modoc
San Joaquin	Monterey
San Luis Obispo	Napa
San Mateo	Plumas
Santa Barbara	Sacramento
Santa Clara	San Diego
Sonoma	San Francisco
Stanislaus	Santa Cruz
Sutter	Shasta
Tulare	Sierra
Ventura	Siskiyou
Yuba	Solano
	Tehama
	Tuolumne
	Yolo

CHAPTER IV

ROLE AND RESPONSIBILITIES OF THE STATE BOARD OF EDUCATION

This chapter discusses the State Board's authority and responsibilities specific to school district organization and the California Department of Education's support to the State Board. It will be of value in distinguishing between the role of county committees and the State Board of Education. County committee members in particular will find it useful in understanding what happens to school district organization proposals after the county committee has acted.

IV. ROLE AND RESPONSIBILITIES OF THE STATE BOARD OF EDUCATION

A. Powers of the State Board

1. Statutory Authority

   Among the powers granted to the State Board of Education is the power to approve or disapprove the formation of a new school district. (EC 35753) The State Board of Education conducts public hearings on the formation of school districts and also on potential impacts on the environment pursuant to the California Environmental Quality Act (CEQA—Public Resources Code Section 21000 et seq.). The State Board of Education also has authority to hear and decide appeals from decisions of county committees on school district organization decisions on transfers of territory between school districts. (EC 35710.5 and 35711)

   The State Board of Education is required to establish minimum standards, which it will apply in approving or disapproving petitions for the formation or reorganization of school districts. (EC 35750)

   The State Board of Education also has general and specific authority to adopt regulations. (EC 33031 and 35712) The regulations specific to school district organization proposals and the procedures for public hearings are in Title 5, California Code of Regulations (CCR), Sections 18570–18573.

   The State Board of Education also has authority to waive certain sections of the Education Code and occasionally is requested to do so by school districts to solve specific problems related to school district organization. (EC Sections 33050–33052.5)

2. Criteria for Approval of Reorganization Petitions

   a. Authority to Approve If Criteria Are Met. The State Board of Education has authority to approve proposals for reorganization of school districts if the criteria in Education Code Section 35753(a) are substantially met.

      Section 18573, Title 5, California Code of Regulations (5 CCR 18573), also contains some additional minimum standards that augment the statutory criteria in EC 35753. There is some redundancy because Senate Bill 1927 in 1990 (Chapter 1658, Statutes of 1990) strengthened the State Board of Education's regulations by enacting them into statute.

      A side-by-side comparison of both statutory and regulatory requirements can be found at the end of Chapter VI.

   b. Authority to Approve If Exceptional Circumstances Exist. The State Board may depart from the statutory criteria under certain conditions. Specifically, the State Board of Education may determine that it is not practical or possible to

apply the criteria literally and that circumstances provide an exceptional situation sufficient to justify approval of the proposal. (EC 35753(b))

In the 44 unification proposals prior to July, 1992, the State Board of Education waived the district size criterion 19 times. In 5 CCR 18573, the minimum size for a unified district is supposed to be 1,501 students. In sparsely populated areas it is often difficult to reach that number of students. The State Board of Education has considered factors such as distance, weather conditions, geography, and topography in deciding whether to waive the size criterion. Only once has the State Board of Education determined that an exceptional circumstance existed for any other criterion—more than a 10 percent increase in costs to the state.

c. Authority to Amend or Modify Proposals. The State Board has authority to amend proposals, but the authority is limited to the items specified in Education Code Sections 35730–35738. Otherwise, the State Board of Education can approve or disapprove only the proposal before it. (EC 35754) The most frequent amendments the State Board makes are in the area of elections, numbers of trustees, trustee areas, and governing board elections.

3. Role of the Administrative Committee

a. Public Hearings on Petitions and Appeals. The Administrative Committee of the State Board of Education is one of the State Board of Education's standing committees and has five members. The Administrative Committee considers appeals from county committee decisions on territory transfers, holds the public hearings necessary for school district organization petitions, and makes recommendations to the full State Board of Education. The other major portion of the Committee's work is related to approval or denial of waivers of the Education Code.

The Administrative Committee usually meets on the Thursday of the two-day State Board meeting from 9 a.m. to noon. Occasionally, though, the Committee's long agendas have required meeting on Wednesday afternoons as well as Thursday mornings.

The State Board of Education generally meets on the second Thursday and Friday of every month except August, when it does not meet. In March, however, the scheduled meeting days are modified to accommodate the Student Advisory Board of Education. In recent years all State Board of Education meetings have been held in Sacramento because of budgetary constraints.

Unification petitions require two public hearings: first, to consider the effects on the environment as required by CEQA (see environmental concerns, Chapter V, Section D), and, second, on whether to approve the unification petition.

For all public hearings, the chairperson of the Administrative Committee determines the amount of time allotted for public input and can determine the amount of time allotted to each person or to each side of an issue. (5 CCR 18571) At the scheduled time for the public hearing, the chairperson of the Administrative Committee adjourns the Administrative Committee meeting and opens a public hearing. Typically, proponents are allotted 30 minutes total for all speakers. Then opponents are allotted 30 minutes. Finally, each side is allotted a total of five minutes for rebuttal. Following the public input, the Administrative Committee chairperson closes the public hearing and reopens the Administrative Committee meeting.

Persons wishing to address the Administrative Committee at a public hearing must notify the Secretary of the State Board of Education in writing by noon of the third working day before the scheduled hearing. (5 CCR 18461) Requests should state the subject to be addressed, the organization being represented, and the nature of the testimony.

b. Appeals on Territory Transfers. County committees on school district organization have the authority to approve or disapprove transfers of territory between school districts without further action by the State Board of Education. (EC 35706, 35709, and 35710)

   If the chief petitioners or the affected school districts do not agree with the action of the county committee, an appeal may be filed with the State Board of Education. The appeal must be limited to issues of noncompliance with EC 35705, 35706, 35709, or 35710. Appeals are covered in detail in Chapter XI. The procedures the State Board of Education uses in conducting public hearings, voting, and recommending to the full State Board of Education with respect to appeals are the same as those used for unification petitions except that a CEQA hearing is not required.

c. Recommendations to the Full State Board. When the Administrative Committee votes on an appeal or unification proposal, it is for the purpose of recommending that the entire State Board of Education either affirm or reverse the action of a county committee. At the full State Board of Education session following the Administrative Committee meeting (usually the next day), the chairperson of the Administrative Committee reports on the proceedings of the Administrative Committee and moves adoption of the Administrative Committee's recommendations. If the Administrative Committee's vote on the previous day was unanimous, generally no further discussion is necessary. If there was dissent or if a member having objections to the recommendations was unable to attend the Administrative Committee meeting, there may be further discussion among State Board of Education members before the final vote is taken on that agenda item. There is rarely any further public input taken at the full State Board of Education meeting; any input that is taken is generally in the

form of responses to specific questions posed by members of the State Board of Education and is taken only with the approval of and under the direction of the presiding officer.

B. Role of the California Department of Education

1. Staff Studies

The California Department of Education works with the State Board of Education by preparing the studies and reports needed for school district organization proposals. (EC 35751 and 5 CCR 18570) Reorganization proposals and appeals are filed with the State Board of Education and are referred to specific staff in the California Department of Education's Office of Auxiliary School Business Services, School Business Services Division, for completion of the necessary studies, reports, and recommendations. For assistance from that office, telephone (916) 322-6029 or write to:

Office of Auxiliary School Business Services
California Department of Education
560 J Street, Suite 170
Sacramento, CA 95814

Staff reports and studies provided to the State Board of Education include:

a. Contacting state and local agencies to determine possible adverse environmental effects or to obtain additional information relative to the district reorganization

b. Completing preliminary studies for the State Board of Education that are required by CEQA

c. Submitting required CEQA documents to the State Clearinghouse in the Governor's Office of Planning and Research

d. Reviewing district reorganization proposals for compliance with statutes and regulations

e. Preparing reports and recommendations to the State Board of Education on whether or not to approve reorganization proposals

f. Reviewing the administrative record on appeals from county committees on school district organization decisions on transfers of territory

g. Preparing reports and recommendations to the State Board of Education on actions to be taken to approve or deny appeals on territory transfers

h. Providing assistance to county committees on school district organization, school district administrators, and members of the public on legal requirements for school district reorganization

i. Coordinating with other offices of the California Department of Education for their specialized studies and review of proposals (In particular, the Division of Audits and Investigations provides review of the possible impact of reorganization on racial and ethnic status; the Curriculum and Instruction Branch reviews the possible impact on educational programs; the Local Assistance Bureau helps determine the effects on district revenue limits; and the School Facilities Division assists in determining possible increased costs for school housing.)

2. Legal Counsel

The California Department of Education also provides legal counsel for the State Board of Education and its Administrative Committee. Legal counsel is essential at each stage of preparation of recommendations to the State Board of Education, and counsel reviews all proposals to be presented to the State Board of Education. The Department's legal counsel also represents the State Board of Education in litigation challenging State Board decisions. The Department's legal counsel is regularly consulted by the county's counsel and district's counsel on district reorganization legal issues.

For assistance in legal questions, telephone (916) 657-2453 or write to:

Legal Office
California Department of Education
P.O. Box 944272
Sacramento, CA 94244-2723

CHAPTER V

REORGANIZATION OF SCHOOL DISTRICTS IN CALIFORNIA

Chapter V is a how-to chapter. It takes the reader step by step through the process of forming or abolishing school districts, consolidating school districts, transferring territory from one district to another, and unifying school districts. Anyone involved in school district organization from petitioners to members of the State Board of Education will find this chapter useful in understanding legal requirements. For quick reference the complete process is outlined in a series of flowcharts which succinctly explain:

- The 25 percent petition (used when the owners of uninhabited territory or the district governing board or 25 percent of the registered voters in the affected area petition to transfer territory or unify)
- The 10 percent petition (used when county committees on school district organization or 10 percent of the registered voters in an entire school district wish to transfer territory or unify)
- The mandated Education Code and California Code of Regulations criteria for approvals
- The guidelines and rules followed by the Governor's Office of Planning and Research (OPR) in administering the California Environmental Quality Act regulations

Following each chart, the major requirements of reorganization proposals and the review and approval process are discussed in detail. A review of the introduction to Chapter V, Section A, provides a concise overview of the procedures used in reorganizing school districts.

V. REORGANIZATION OF SCHOOL DISTRICTS IN CALIFORNIA

A. Introduction

1. Definition of Reorganization

   An action to reorganize districts means an action to form, dissolve, or lapse a school district; to annex all or part of the territory of one district to another district; to transfer all or part of one district to another district; to unify or deunify a school district; to otherwise alter the boundaries of a school district; or any combination of these actions. (EC 35511)

   Certain changes to school district boundaries are not considered reorganizations of districts. These changes are corrections and relocations of boundary lines that conflict or are incorrectly described or that are indefinite or conflict with lines of assessment because of the resubdivision of land or other property change. In these cases, the board of supervisors (or the county board of education, if responsibilities have been transferred pursuant to EC 1043 and 1080) may correct and relocate the boundaries to follow definite, established property lines. These changes must conform as nearly as practicable to the general location of the former boundaries and must be made in such a manner that the majority of the area of the affected parcel or property determines the district in which the parcel or property will be located. (EC 2600) (Note: When such changes are made, notifications to local, county, and state government agencies are required. See Section C, item 8, this chapter.)

2. Overall Process

   This chapter discusses the major requirements and procedures of the reorganization proposal, review, and approval process. It covers the ways in which proposals may be initiated, reviewed by the county committee, and presented at public meetings and the steps involved in bringing an action to approval with or without State Board of Education involvement.

   Section B, Process: Quick Reference Charts, which follows, is intended to provide a succinct reference for readers to learn quickly what all is involved in the various types of reorganization proposals. Section B provides a one-page outline and an accompanying flowchart for each type of proposal. Each one-page outline identifies six (A–F) necessary steps of the process, including important legal references. The flowcharts facilitate the sequencing of those necessary steps. These four different reorganization processes are:

   a. Territory Transfers Initiated by Owners, 25 Percent Petition, or District Governing Board

   b. Territory Transfers Initiated by 10 Percent Petition or County Committee

c. Unifications Initiated by Owners, 25 Percent Petition, or District Governing Board

d. Unifications Initiated by 10 Percent Petition or County Committee

In addition, the criteria for approval of reorganization proposals are included as a one-page outline.

Section C, Process: Expanded Detail, presents a more detailed description of the various steps involved in the reorganization process. This section is intended to provide additional information beyond the one-page outline.

Section D, Environmental Concerns, provides information on the responsibilities of any public agency undertaking a project which could potentially have an impact on the environment (CEQA requirements). Also included is a Quick Reference Chart on the process involved when a county committee is the lead agency.

3. Reorganization Involving Two or More Counties

In any action to reorganize school districts which are located in more than one county, the same procedures are required and shall take place in both counties. Separate hearings may be held in individual counties; however, any resulting recommendations by any of the county committees can be made only at or after a joint public hearing. (EC 35520-24)

If plans and recommendations for district reorganization involve territory under the jurisdiction of the superintendent of an adjacent county, the county committee of the adjacent county is requested to concur with the plans and recommendations. Regardless of concurrence, or after 60 days' notice of nonconcurrence, the plans and recommendations must be submitted to the State Board of Education for a decision. (EC 35723 and 35724)

See Appendix D for further details of the procedures that must be followed when two or more counties are involved.

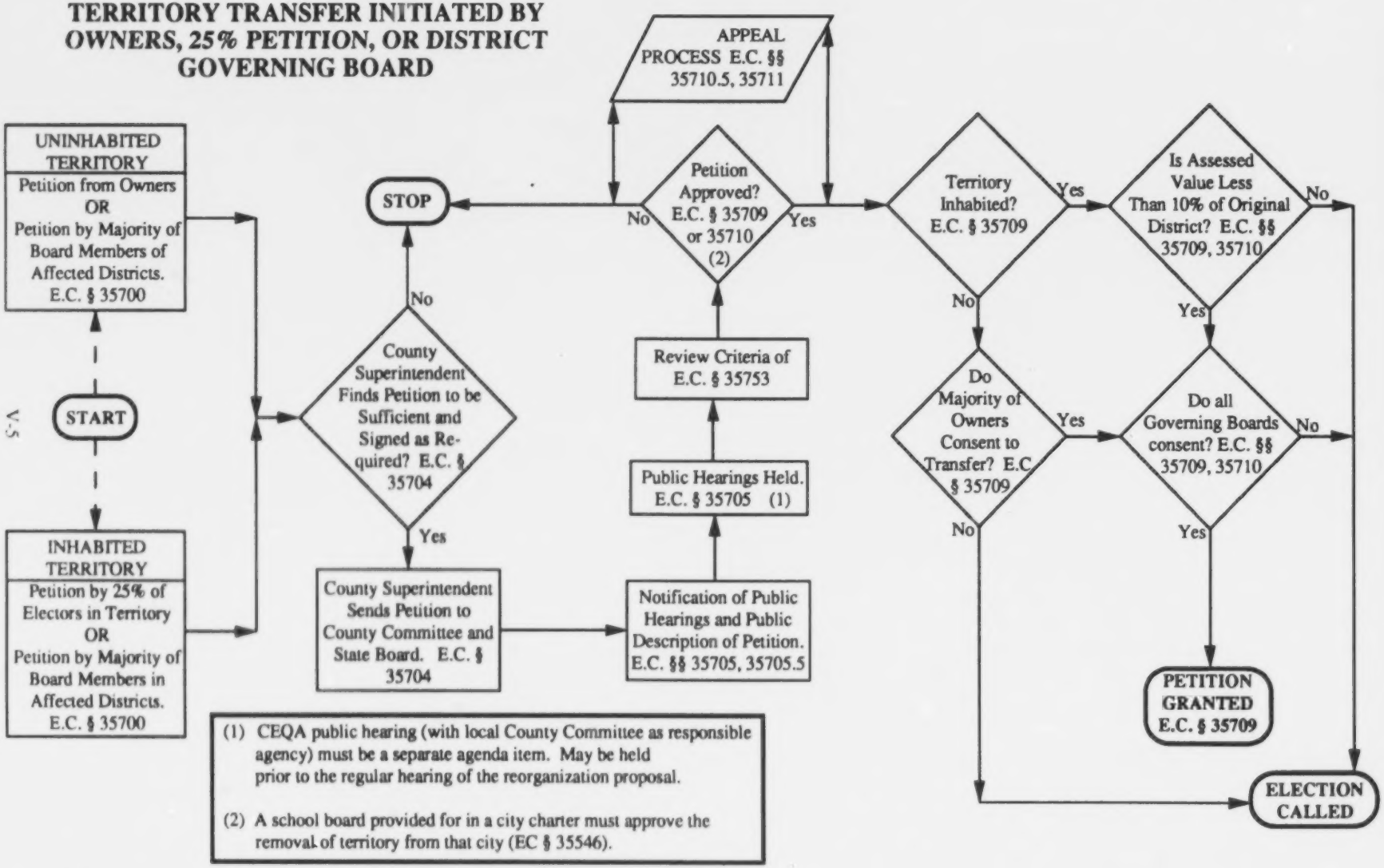
B. Process: Quick Reference Chart V-1

TERRITORY TRANSFERS INITIATED BY OWNERS,
25 PERCENT PETITION, OR DISTRICT GOVERNING BOARD
(See Flowchart V-1.)

1. Initiation of Proposals for Territory Transfer (EC 35700)
   a. Petition signed by 25 percent of the registered voters in the affected territory *or*
   b. Petition signed by the owner(s) of uninhabited territory *or*
   c. Petition signed by governing boards of all affected districts
2. Determination of Sufficiency of Petition (EC 35704)
   a. County superintendent must determine the validity of the petition within 20 days after receiving the petition.
   b. A petition signed by 25 percent of the electorate must be verified by the county elections department.
   c. The county committee and the State Board of Education must be notified when a valid petition is received.
3. Public Hearings (EC 35705, 35705.5): A public hearing in each affected district must be held by the county committee within 60 days of receipt of a valid petition.
4. CEQA Review (Public Resources Code Section 21000-21177): The county committee must determine the impact that the territory transfer may have on the environment.
5. County Committee Study of the Territory Transfer (EC 35753): The county committee study must determine the impact of the territory transfer on the criteria listed in EC 35753.
6. Approval Process (EC 35706, 35709, 35710)
   a. All territory transfers are decided at the local level.
   b. Within 120 days of the first public hearing, the county committee must approve or disapprove the petition to transfer territory.
   c. If either of the following two conditions are met, the county committee may approve the territory transfer *without* an election:
      1) The territory is uninhabited *and* the majority of the owners consent to the transfer *and* the governing boards of all affected districts consent to the transfer.
      2) The territory is inhabited *and* the territory is less than 10 percent of the assessed valuation of the district *and* the governing boards of all affected districts consent.
   d. For all other territory transfers, if the county committee approves the transfer, the county superintendent must call an election in the area determined by the county committee.

FLOWCHART V-1

TERRITORY TRANSFER INITIATED BY *OWNERS, 25% PETITION, OR DISTRICT GOVERNING BOARD*


UNINHABITED TERRITORY
Petition from Owners OR Petition by Majority of Board Members of Affected Districts. E.C. § 35700
START
INHABITED TERRITORY
Petition by 25% of Electors in Territory OR Petition by Majority of Board Members in Affected Districts. E.C. § 35700
County Superintendent Finds Petition to be Sufficient and Signed as Required? E.C. § 35704
No
Yes
STOP
County Superintendent Sends Petition to County Committee and State Board. E.C. § 35704
Notification of Public Hearings and Public Description of Petition. E.C. §§ 35705, 35705.5
Public Hearings Held. E.C. § 35705 (1)
Review Criteria of E.C. § 35753
Petition Approved? E.C. § 35709 or 35710 (2)
No
Yes
APPEAL PROCESS E.C. §§ 35710.5, 35711
Territory Inhabited? E.C. § 35709
Yes
No
Is Assessed Value Less Than 10% of Original District? E.C. §§ 35709, 35710
No
Yes
Do Majority of Owners Consent to Transfer? E.C. § 35709
Yes
No
Do all Governing Boards consent? E.C. §§ 35709, 35710
No
Yes
PETITION GRANTED E.C. § 35709
ELECTION CALLED

(1) CEQA public hearing (with local County Committee as responsible agency) must be a separate agenda item. May be held prior to the regular hearing of the reorganization proposal.

(2) A school board provided for in a city charter must approve the removal of territory from that city (EC § 35546).

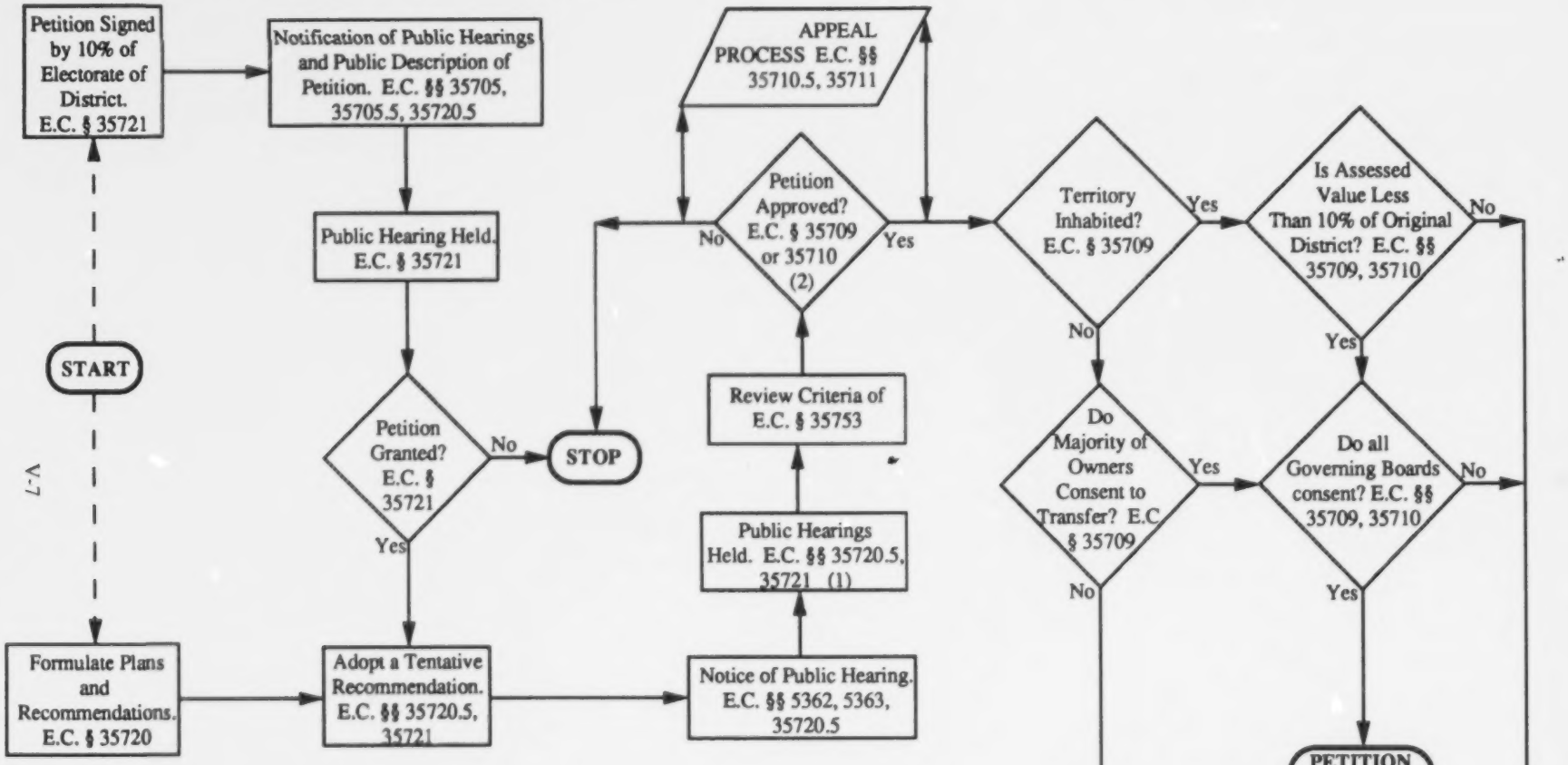
B. Process: Quick Reference Chart V-2

TERRITORY TRANSFERS INITIATED BY
10 PERCENT PETITION OR COUNTY COMMITTEE
(See Flowchart V-2.)

1. Initiation of Proposals for Territory Transfer (EC 35720, 35721)
   a. Petition signed by 10 percent of the registered voters of the entire school district *or*
   b. County committee plans and recommendations
2. Preliminary Hearing of Petition (EC 35721)
   a. County committee must hold a public hearing of a 10 percent voter petition.
   b. Following the hearing, the county committee must grant or deny the petition.
   c. If the petition is granted, the county committee must adopt tentative plans and recommendations.
3. Public Hearings (EC 35705, 35705.5, 35720.5, 35721): A public hearing in each affected district must be held by the county committee within 60 days of adopting plans and recommendations.
4. CEQA Review (Public Resources Code 21000-21177): The county committee must determine the impact that the territory transfer will have on the environment and hold public hearings in conjunction with the reorganization hearing.
5. County Committee Study of the Territory Transfer (EC 35722, 35709, 35710): The county committee study must determine the impact of the territory transfer on the criteria listed in EC 35753.
6. Approval Process (EC 35709, 35710, 35722)
   a. All territory transfers are settled at the local level.
   b. Within 120 days of the first public hearing, the county committee must approve or disapprove the petition.
   c. If either of the following two conditions are met, the county committee may approve the territory transfer *without* an election:
      1) The territory is uninhabited *and* the owners consent to the transfer *and* the governing boards of all affected districts consent to the transfer.
      2) The territory is inhabited *and* the territory is less than 10 percent of the assessed valuation of the district *and* the governing boards of all affected districts consent.
   d. For all other territory transfers, if the county committee approves the transfer, the county superintendent must call an election in the area as determined by the county committee.

TERRITORY TRANSFER INITIATED BY 10% PETITION OR COUNTY COMMITTEE

FLOWCHART V-2


Petition Signed by 10% of Electorate of District. E.C. § 35721
Notification of Public Hearings and Public Description of Petition. E.C. §§ 35705, 35705.5, 35720.5
APPEAL PROCESS E.C. §§ 35710.5, 35711
Public Hearing Held. E.C. § 35721
Petition Approved? E.C. § 35709 or 35710 (2)
No
Yes
Territory Inhabited? E.C. § 35709
Yes
Is Assessed Value Less Than 10% of Original District? E.C. §§ 35709, 35710
No
Yes
START
Petition Granted? E.C. § 35721
No
STOP
Yes
Review Criteria of E.C. § 35753
Do Majority of Owners Consent to Transfer? E.C. § 35709
Yes
Do all Governing Boards consent? E.C. §§ 35709, 35710
No
Yes
Public Hearings Held. E.C. §§ 35720.5, 35721 (1)
Formulate Plans and Recommendations. E.C. § 35720
Adopt a Tentative Recommendation. E.C. §§ 35720.5, 35721
Notice of Public Hearing. E.C. §§ 5362, 5363, 35720.5
PETITION GRANTED E.C. § 35709
ELECTION CALLED

(1) CEQA public hearing (with local County Committee as responsible agency) must be a separate agenda item. May be held prior to the regular hearing of the reorganization proposal.

(2) A school board provided for in a city charter must approve the removal of territory from that city (EC § 35546).

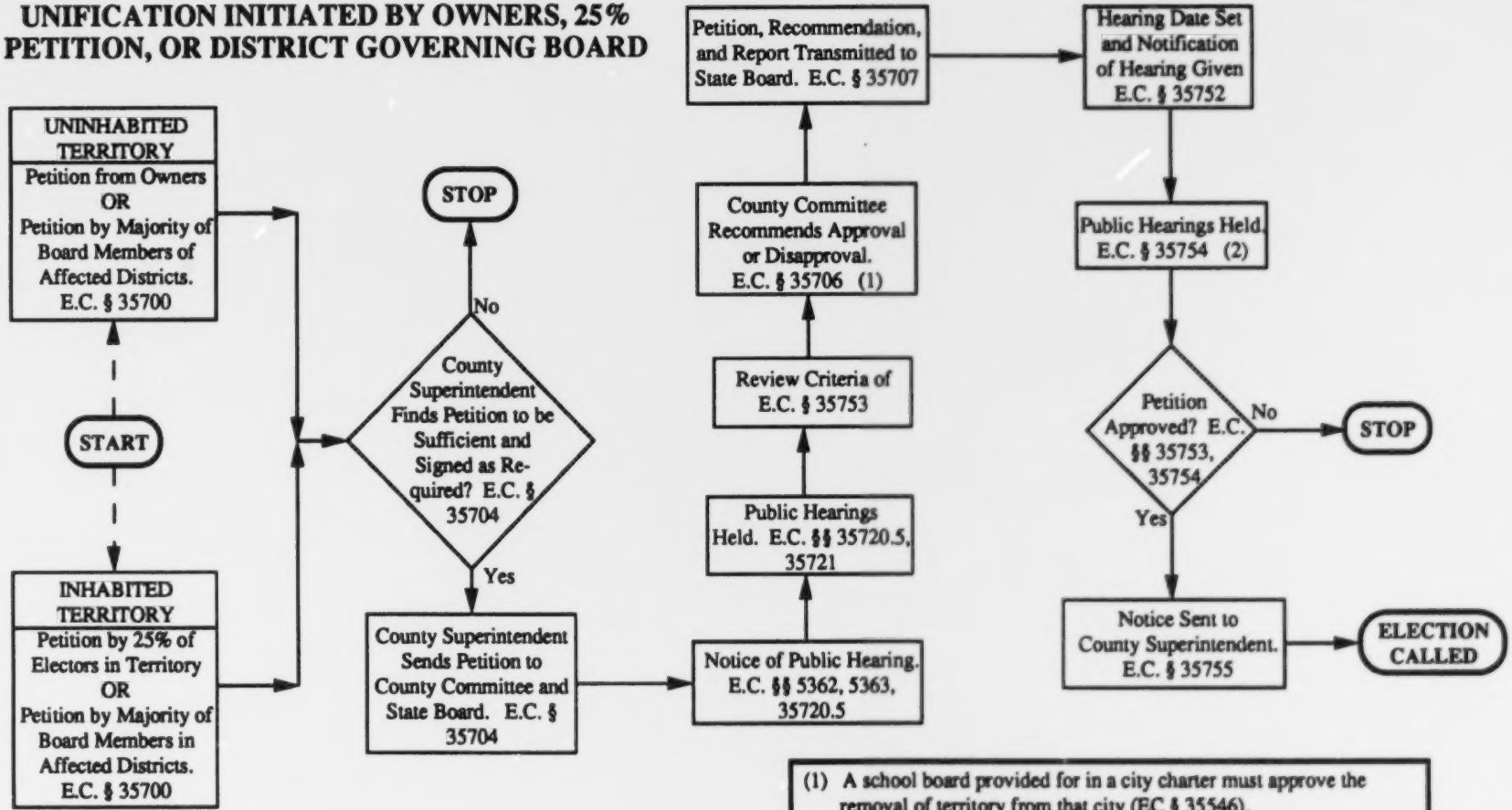
B. Process: Quick Reference Chart V-3

UNIFICATIONS INITIATED BY OWNERS,
25 PERCENT PETITION, OR DISTRICT GOVERNING BOARD
(See Flowchart V-3.)

1. Initiation of Proposals for Unification
   a. Petition signed by 25 percent of the registered voters in affected territory *or*
   b. Petition signed by the owner(s) of uninhabited territory *or*
   c. Petition signed by governing boards of all affected districts
2. Determination of Sufficiency of Petition (EC 35704)
   a. County superintendent must determine sufficiency of petition within 20 days.
   b. A petition signed by 25 percent of the electorate must be verified by the county department of elections.
   c. The county committee and the State Board of Education must be apprised of a sufficient petition.
3. Public Hearings (EC 35705, 35705.5): A public hearing in each affected district must be held by the county committee within 60 days of receiving the petition.
4. County Committee Study of the Unification (EC 35753): The county committee study must determine the impact of the unification on the criteria listed in EC 35753.
5. Approval Process (EC 35706, 35707, 35752–35755)
   a. Within 120 days of the first public hearing, the county committee must make a recommendation to approve or disapprove the petition.
   b. The county committee may make a recommendation regarding the area of election.
   c. County committee transmits the petition, report, and recommendations to the State Board of Education.
   d. The State Board of Education holds public hearings on CEQA and the unification proposal.
   e. The State Board of Education approves or disapproves the petition.
   f. If approval is given, the county superintendent calls an election in an area determined by the State Board of Education.

FLOWCHART V-3

UNIFICATION INITIATED BY OWNERS, 25% PETITION, OR DISTRICT GOVERNING BOARD


UNINHABITED TERRITORY
Petition from Owners OR Petition by Majority of Board Members of Affected Districts. E.C. § 35700
START
INHABITED TERRITORY
Petition by 25% of Electors in Territory OR Petition by Majority of Board Members in Affected Districts. E.C. § 35700
STOP
No
County Superintendent Finds Petition to be Sufficient and Signed as Required? E.C. § 35704
Yes
County Superintendent Sends Petition to County Committee and State Board. E.C. § 35704
Notice of Public Hearing. E.C. §§ 5362, 5363, 35720.5
Public Hearings Held. E.C. §§ 35720.5, 35721
Review Criteria of E.C. § 35753
County Committee Recommends Approval or Disapproval. E.C. § 35706 (1)
Petition, Recommendation, and Report Transmitted to State Board. E.C. § 35707
Hearing Date Set and Notification of Hearing Given E.C. § 35752
Public Hearings Held. E.C. § 35754 (2)
Petition Approved? E.C. §§ 35753, 35754
No
STOP
Yes
Notice Sent to County Superintendent. E.C. § 35755
ELECTION CALLED

(1) A school board provided for in a city charter must approve the removal of territory from that city (EC § 35546).

(2) CEQA public hearing (with State Board of Education as responsible agency) also will be held.

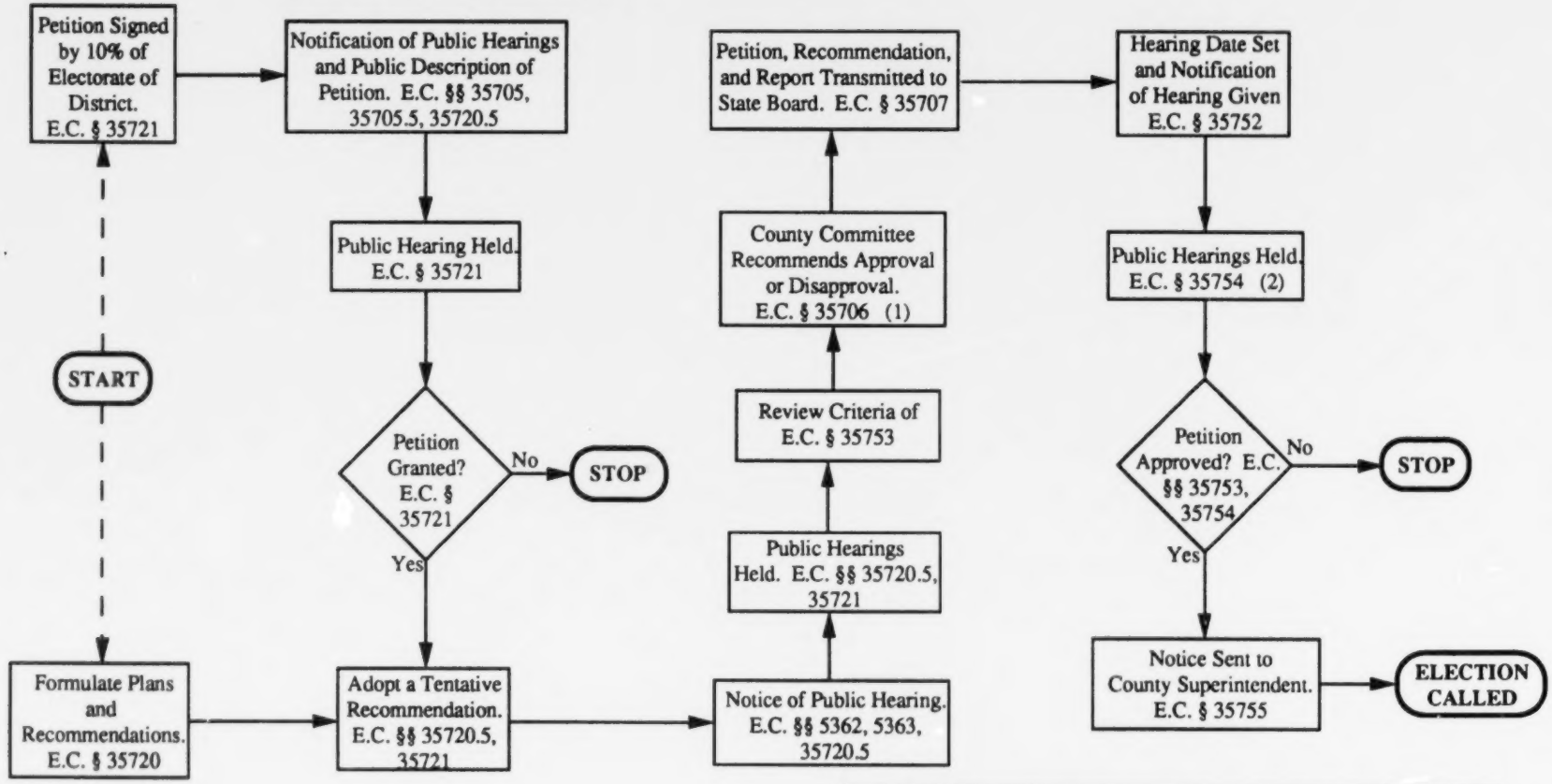
B. Process: Quick Reference Chart V-4

UNIFICATIONS INITIATED BY
10 PERCENT PETITION OR COUNTY COMMITTEE
(See Flowchart V-4.)

1. Initiation of Proposals for Unification (EC 35720, 35721)
   a. Petition signed by 10 percent of the registered voters of the entire district *or*
   b. County committee plans and recommendations
2. Preliminary Hearing of Petition (EC 35721)
   a. County committee must hold public hearing of a 10 percent voter petition.
   b. Following the hearing the county committee must grant or deny the petition.
   c. If the petition is granted, the county committee must adopt tentative plans and recommendations.
3. Public Hearings (EC 35705, 35705.5, 35720.5): A public hearing in each affected district must be held by the county committee within 60 days of adopting plans and recommendations.
4. County Committee Study of the Unification (EC 35753): The county committee study must determine the impact of the unification on the criteria listed in EC 35753.
5. Approval Process (EC 35706, 35707, 35752–35755)
   a. Within 120 days of the first public hearing, the county committee must make a recommendation to approve or disapprove the petition.
   b. The county committee may make a recommendation regarding the area of election.
   c. County committee transmits the petition, report, and recommendations to the State Board of Education.
   d. The State Board of Education holds public hearings on CEQA and the unification proposal.
   e. The State Board of Education approves or disapproves the petition.
   f. If approval is given, the county superintendent calls an election in an area determined by the State Board of Education.

FLOWCHART V-4

UNIFICATION INITIATED BY 10% PETITION OR COUNTY COMMITTEE


Petition Signed by 10% of Electorate of District. E.C. § 35721
Notification of Public Hearings and Public Description of Petition. E.C. §§ 35705, 35705.5, 35720.5
Public Hearing Held. E.C. § 35721
Petition Granted? E.C. § 35721
No
STOP
Yes
START
Formulate Plans and Recommendations. E.C. § 35720
Adopt a Tentative Recommendation. E.C. §§ 35720.5, 35721
Notice of Public Hearing. E.C. §§ 5362, 5363, 35720.5
Public Hearings Held. E.C. §§ 35720.5, 35721
Review Criteria of E.C. § 35753
County Committee Recommends Approval or Disapproval. E.C. § 35706 (1)
Petition, Recommendation, and Report Transmitted to State Board. E.C. § 35707
Hearing Date Set and Notification of Hearing Given E.C. § 35752
Public Hearings Held. E.C. § 35754 (2)
Petition Approved? E.C. §§ 35753, 35754
No
STOP
Yes
Notice Sent to County Superintendent. E.C. § 35755
ELECTION CALLED

(1) A school board provided for in a city charter must approve the removal of territory from that city (EC § 35546).

(2) CEQA public hearing (with State Board of Education as responsible agency) also will be held.

B. Process: Quick Reference Chart V-5

CRITERIA FOR APPROVAL OF
REORGANIZATION PROPOSALS

1. The new districts will be adequate in terms of number of pupils enrolled.
2. The districts are each organized on the basis of a substantial community identity.
3. The proposal will result in an equitable division of property and facilities of the original district or districts.
4. The reorganization of the districts will not promote racial and ethnic discrimination or segregation.
5. The proposed reorganization will not result in any substantial increase in costs to the state.
6. The proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue or promote sound educational performance in those districts.
7. The proposed reorganization will not result in a significant increase in school housing costs.
8. The proposed reorganization is not primariiy designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to an adjoining district.
9. The proposed reorganization will not negatively affect the fiscal management or fiscal status of the proposed district or any existing district affected by the proposed reorganization.

The State Board of Education may approve a proposal of the reorganization of school districts if the Board determines that it is not practical or possible to apply the criteria of this section literally and that the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval of the proposals.

C. Process: Expanded Detail

1. Initiation of Reorganization Proposals

   a. County Committee Plans and Recommendations

   There are three ways in which a proposal for reorganization may begin at the county committee level. First, the county committee may propose reorganizations on its own initiative. Second, it must respond to directions of the State Board of Education to formulate plans and recommendations for the reorganization of the districts in the county, or any portion of it, including adjacent areas in other counties. Third, the county committee must, after a public hearing, recommend for or against reorganizations proposed to it by petition of 10 percent of any entire district's voters. Such initiations are included here because, if the petition is granted pursuant to Education Code Section 35721, the county committee will then take on the petition as its own recommendation. (EC 35720, 35721)

   b. Reorganizations Initiated by Petition

   The county committee on school district organization and the county superintendent of schools may be petitioned to initiate actions of reorganization under Sections 35700 and 35721 of the Education Code. A petition for reorganization may be signed by (1) the majority of owners of uninhabited territory; (2) 25 percent of the registered voters in the inhabited territory proposed to be reorganized (If the territory proposed for reorganization resides within two or more school districts, the signatures of at least 25 percent of the registered voters from that territory in each school district is required.); or (3) the majority of board members in *each* of the affected districts for both inhabited and uninhabited territory. Note that the petition must first be submitted to the county superintendent of schools for determination of sufficiency (see item 4 of this section, "Determination of Sufficiency of Electorate Petitions").

   c. Boundary Issues to Be Considered When Initiating a Reorganization

      1) Boundary Change Reorganization. An action to transfer territory of a school district is an action to reorganize districts; it thus requires the approval of the county committee on school district organization. (EC 35511)

      2) Relationship of Elementary District Boundaries to the High School Districts. The boundaries of the component elementary district must be coextensive with the high school district including them. Changes in any of the districts' boundaries must not alter this condition. (EC 35540, 35541) Whenever the boundaries of an elementary and a high school district become coterminous, the districts are considered merged into one unified

district. (EC 35542) On or after January 1, 1981, no school district may be newly formed or reorganized so that any portion of it is completely separated by territory of another school district(s) (leapfrogging prohibition). (EC 35543)

3) Area Adjustments After Reorganization. Prior to the effective date of a reorganized district, the county committee may approve plans to subsequently reorganize any or all of the district. However, during the first five years after a district's formation, no territory may be removed from it without its board's consent. (EC 35545)

4) City's Authority over Its Charter Board. Territory within the boundaries of a city which has provided for a school district's board in its charter may not be removed from that district without the approval of that school board. (EC 35546)

2. Contents of Plans, Petitions, and Recommendations

Certain information is required in a petition for reorganization, but very little is required of a county committee plan or recommendation. (EC 35703, 35730, et seq.)

a. Three items of basic information which should be included in both are:

1) A legal description and map of the territory to be covered by the proposed action (Government Code Section 58850, et seq.) *and*

2) A list of school districts affected by the proposal *and*

3) The reasons for the proposed reorganization.

b. The following items must be part of any petition filed under EC 35700:

1) A designation of no more than three of the petitioners as chief petitioners for the purpose of receiving notification of public hearings and other pertinent information. This applies only to a "25 percent petition." (EC 35701) *and*

2) An affidavit that all signatures on the petition are genuine signatures and were obtained in the presence of the petition circulator. (EC 35702)

c. The following items are suggested for inclusion in the county committee's plans and recommendations. Note that only item 5 is required to be a part of a county committee recommendation.

1) Whether the districts' governing board(s) will be a city board of education controlled by a city charter or a separate board governed by general laws. (If not stated, it will be a general law district.) (EC 35730)

2) Whether there shall be a seven member board. (If not stated, there will be five members.) (EC 35731)

3) If the recommendation involves splitting an existing district into two or more districts, whether they will be voted on as a single issue. (EC 35733)

4) Whether the trustee areas are to be designed in accordance with general or specific population and geographic factors. Any such provision must also specify the trustee area boundaries and whether board members will be elected at large or only by voters from that respective trustee area. In the absence of any provisions, the proposed district must have members elected at large. (EC 35734)

5) A computation of the revenue limit per average daily attendance (ADA) for the proposed new district(s). This must be included in a county committee recommendation. (EC 35735) (See Chapter VII, Section D, "Revenue Limit of New District," for a description of the revenue limit computation.) The reorganized district cannot have a revenue limit greater than that set forth in the approved proposal. The revenue limit may be increased only because of inflation adjustments pursuant to Education Code Section 42238.1.

6) A proposal for dividing the property (other than real property) and obligations. (EC 35736)

7) When a new school district is being formed, whether the first governing board will be elected at the same election as the reorganization proposal and, if so, a method for determining the length of the terms of the initial members. (If not specified, the first governing board will be elected at the first regular election after the passage of the reorganization proposal.) (EC 35737)

8) A method of dividing the bonded indebtedness other than the method specified in the Education Code. (EC 35576, 35738)

9) A method of exchanging property tax revenue pursuant to Section 99 of the Revenue and Taxation Code.

Obviously, the area to be reorganized must be defined in order for a determination to be made that 25 percent of the voters residing in that area have signed the petition.

3. Signing the Petition

The signatures to the petition need not all be appended to one paper. If the territory included in the petition is situated in more than one county, the signatures on each page of a petition must be those of residents of only one of the counties. Of the signatures appended to such pages, only the signatures of the voters of the county

designated must be valid. In addition to signing the petition, each signer must include his/her printed name and place of residence, giving street address and city. (Elections Code Section 41) If no street or number exists, the place of residence must be designated so that the location can be readily ascertained. A space of at least one inch must be left blank after each name for the use of the clerk in verifying the petition. The spaces for signatures must be numbered consecutively. Consult Elections Code Section 44(a)(3) for further requirements regarding recording of dates of the signatures.

Each section of the petition must have a declaration attached to it. The affidavit must state that the person securing the signatures to the petition is a registered voter, that all persons who signed the petition did so in the presence of the circulator, and that each signature is the genuine signature of the person whose name it purports to be. The circulator of the petition must also state the date and place of execution immediately upon signing the petition. (EC 35702 and Elections Code Sections 42 and 44)

4. Determination of Sufficiency of Electorate Petitions

   The county superintendent of schools has 20 days after the petition for reorganization has been filed to examine the petition and determine if it is sufficient and signed as required by law. (EC 35704) The county superintendent of schools transmits any petition signed by 25 percent of the registered voters to the county department of elections and records for verification of signatures. The county clerk/recorder/registrar of voters examines the signatures and, from the records of registration, ascertains whether or not the petition is signed by the requisite number of valid registered voters. The county clerk then attaches to it his/her certificate showing the results of the examination. If the number of verified signatures is insufficient, no further action is taken.

   If the territory included in the petition is situated in more than one county, each petition must be presented to the county superintendents of schools concurrently in each county. The sufficiency of the petition must be determined jointly by the county superintendents who have jurisdiction over the districts in which any petitioner resides. (EC 35521)

   Upon determining the sufficiency of the electorate petition (including the receipt of the county clerk's certificate of verification for a valid voter petition), the county superintendent of schools must transmit the petition simultaneously to the county committee and the State Board of Education. (EC 35704)

5. County Committee Review

   After a 25 percent petition has been received by the county committee, the committee has a maximum of 60 days within which to hold public hearings in each affected school district and 120 days after the first public hearing to recommend

approval or disapproval of the petition to the State Board of Education or to disapprove or approve a proposal to transfer territory. The county committee must determine the impact that a territory transfer will have on the environment. (The State Board of Education is responsible for the CEQA process for unification proposals.) (EC 35705, 35706, and Public Resources Code 21000-21177)

a. Public Description of the Petition

Ten days prior to holding public hearings, the county committee must make available a public description of the petition which includes all of the following: (EC 35705.5)

1) The rights of the employees in the affected districts to continued employment

2) The revenue limit per unit of average daily attendance (ADA) for each affected district and the effect of the petition, if approved, on such revenue limit

3) Whether the districts involved will be governed in part by provisions of a city charter and, if so, in what way

4) Whether the governing boards of any proposed new district will have five or seven members

5) A description of the territory or districts in which the election, if any, will be held

6) Where the proposal is to create two or more districts, whether the proposal will be voted on as a single proposition

7) Whether the governing board of any new district will have trustee areas and, if so, whether the trustees will be elected by only the voters of that trustee area or by the voters of the entire district

8) A description of how the property, obligations, and bonded indebtedness of existing districts will be divided

9) A description of when the governing board of any new district will be elected and how the terms of office for each new trustee will be determined

At this time, the county committee need not provide an analysis of other factors relevant to reorganization, such as the ethnic and racial effects, if any, resulting from such a reorganization. The committee may wish to include an analysis of all other criteria for approval of a reorganization proposal by the State Board, including a description of the effects on ethnic and racial integration. (See Education Code Section 35753 and 5 CCR Section 18573 in Appendix A for a description of the criteria.)

It is recommended that a map and legal description of the reorganized boundaries of the district be submitted to the county assessor/surveyor of the county in which all or part of the district may be located. The purpose of this submission is to obtain a verification of boundary descriptions in regard to their accuracy and completeness.

b. Public Hearings

See Section A, "Public Hearings," in Chapter VIII and Section D, "Environmental Concerns," in this chapter.

6. Approval of the Proposal

Within 120 days after holding the first public hearing on the proposed reorganization, the county committee must recommend approval or disapproval of a proposal for unification or approval or disapproval of a territory transfer. (EC 35706) If the proposal is a county committee plan or recommendation (pursuant to item 1.a. of this section), and the county committee does *not* approve the proposal after the preliminary public hearing, further action on the proposal is halted. For all other proposals or petitions (submitted pursuant to item 1.b. of this section) that are not petitions to transfer territory, the petition and county committee recommendations must be transmitted by the county committee to the State Board of Education.

If the county committee approves the proposal, and the proposal is solely for the purpose of a territory transfer between or among districts, the issue will be settled at the local level. In all other instances of county committee approval of a proposal for reorganization, the proposal and county committee recommendations must be transmitted to the State Board of Education.

a. Local Approval Method

In cases of the transfer of uninhabited territory or inhabited territory that is less than 10 percent of the assessed valuation of the original district and where the majority of owners of the territory and all the involved governing boards agree, the county committee may approve the petition provided it finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of EC Section 35753 are substantially met. In such cases, there would be no election. (EC 35709)

For all other cases involving territory transfer, if the county committee finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of EC Section 35753 are substantially met, the county committee may approve the proposal and, if approved, must notify the county superintendent of schools, who must call an election in the territory of the districts as determined by the county committee. (EC 35710)

See Appendix E, "Criteria Affecting Reorganization Proposals," for a sample process that can be used by the county committee when applying the criteria of EC 35753 to a proposal under review. This sample process also addresses the options of a county committee to disapprove a proposal when all criteria of EC 35753 have been met or to approve a proposal when certain criteria of EC 35753 have not been met.

b. State Board of Education Review

The State Board of Education will hold public hearings on all petitions, other than those involving transfer of territory, upon receiving the plans and recommendations for a proposal from the county committee.

The State Board of Education may also review a petition for any reorganization (including a territory transfer) upon an appeal by the chief petitioners or the affected school districts. Appeals of decisions by county committees to the State Board of Education are allowed under the provisions of Education Code Sections 35710.5 and 35711.

The State Board may approve proposals for the reorganization of districts if the board has determined, with respect to the proposal and the resulting districts, that certain conditions are substantially met. (EC 35753) Those conditions, the statutes and regulations governing the conditions, and guidelines to evaluate the conditions are found in Chapter VI, "Legal Criteria Governing Reorganization Proposals."

The State Board may prescribe other criteria by regulation and may also decide that the above criteria cannot be applied literally and that circumstances are sufficiently exceptional to justify the proposal on other grounds. (EC 35753(b)) (For more detail, see State Board conditions in Appendix A and Appendix E.)

7. Elections. See Chapter VIII, Section B, "Elections."

8. Notifications to Local, County, and State Governmental Agencies

The county board of supervisors must cause a copy of the order and a map or plat of the reorganized territory to be filed with the appropriate local, county, and state government agencies upon any successful reorganization of school districts. (EC 35765) Those agencies usually include:

a. Affected School Districts

b. County Superintendent of Schools

c. County Board of Supervisors

d. County Assessor

e. County Auditor

f. County Registrar of Voters

g. County Counsel

h. County Treasurer

i. State Board of Education

j. State Board of Equalization—Tax Area Service Section (See Government Code Section 54903.1 and Appendix F for Schedule of Processing Fees.)

k. State Superintendent of Public Instruction

l. State Office of Local Assistance (if the reorganization affects outstanding bonds and state loans for building purposes)

Education Code Sections 1043 and 1080 allow the transfer of responsibilities of the county board of supervisors to the county board of education. In those counties in which such action has resulted in the responsibilities for school district organization being transferred to the county board of education, notification of a school district reorganization to the above agencies may be the responsibility of the county office of education. Failure to notify the above agencies by January 1 of the calendar year in which the reorganization is scheduled to be effective for all purposes will delay the effective date of the reorganization for a year. (EC 35534)

D. Environmental Concerns

1. Background

This section provides a general overview of the California Environmental Quality Act. It is not intended to be comprehensive in describing all aspects of all laws and regulations that may apply. There is no substitute for consultation with legal counsel experienced with the California Environmental Quality Act. Included here is a sample procedure. Counties may have differing procedures based on their legal counsel's advice. Other procedures may require more or less documentation.

Under the California Environmental Quality Act (CEQA) (Public Resources Code, Section 21000 et seq.), any public agency directly undertaking a project must first conduct a threshold study in order to determine whether the project may have a significant effect on the environment. If the study shows that there is no substantial evidence that the project will have a significant effect, the agency may so declare in a brief negative declaration. If it demonstrates that the project may have a significant effect, the agency must prepare an environmental impact report. See also the State CEQA Guidelines in Title 14, California Code of Regulations, Section 15000 et seq.

In *Fullerton Joint Union High School District* v. *State Board of Education* (1982) 32 C. 3d 779, 187 Cal. Rptr. 398, the Supreme Court held that reorganization of

school district boundaries is a "project" within the meaning of CEQA and that the State Board of Education, as the state agency making the ultimate decision prior to the election, is the "lead agency" and, as such, is required to consider the impact of the reorganization on the environment.

There are two basic steps. First, the lead agency must conduct an initial study to determine whether the proposed project (reorganization) may have a significant impact on the environment. If no substantial evidence exists to indicate the project would have such an effect, the agency must provide public notice of its intention to adopt a Negative Declaration. The notice describing the project and a copy of the initial study must be posted for 30 days in the Office of the County Clerk. Before reaching a final determination, the agency must consider any comments submitted during the review period.

Second, if the lead agency determines that there may be a significant effect on the environment, it must prepare or have prepared a full environmental impact report before it considers the proposed project. The lead agency may adopt a project in spite of a significant effect on the environment, but it must consider those implications in making its decision.

When the State Board of Education considers a proposed reorganization, it conducts an initial study to consider the factors listed in the Environmental Checklist Form in Appendix G. When it concludes that those factors will not adversely impact the environment, it adopts a resolution of negative declaration before proceeding to consider the merits of the plan or petition.

The county committee is the lead agency regarding transfers of territory because it is the agency responsible for issuing the final decision approving the transfer (the project). When the initial study is conducted with respect to transfers of territory proposals, it is suggested that a form be used which is similar to the Environmental Checklist Form in Appendix G.

2. Process: Quick Reference Chart V-6

CALIFORNIA ENVIRONMENTAL QUALITY ACT PROCESS
(See Flowchart V-5.)

a. When the State Board of Education considers a proposed reorganization, it conducts the initial study. When the county committee considers a proposal to transfer territory it should conduct the initial study. For either agency, a form similar to the Environmental Checklist Form in Appendix G should be utilized.

1) Staff considers the factors in the Environmental Checklist Form (Appendix G); if it determines that there is no significant effect on the environment, then it should prepare a Notice of Intention to Adopt a Negative Declaration Form. Attach an explanation for every answer on the Checklist that is marked "yes" or "maybe."

2) At least 30 days prior to a hearing, file copies of the Notice of Intention to Adopt a Negative Declaration with the Environmental Checklist Form with:

a) County Clerk of each affected county

b) Each affected school district

c) Chief petitioners

d) Persons who requested notice

3) Place a public notice of hearing in newspaper of general circulation. Time frame for running notice is not specified by law: 5 CCR Section 15073: ". . . for a period long enough to provide members of public with sufficient time to respond." Usually, 21 days is sufficient.

4) Place the item on the county committee public hearing agenda.

5) Conduct hearing:

a) The CEQA hearing is held just prior to the hearing regarding the reorganization proposal.

b) Open hearing and provide members of the public an opportunity to testify.

c) If time permits, indicate that testimony will be considered and formally responded to in writing.

d) Close hearing.

6) A county committee, if the facts are appropriate, makes a formal determination that the Negative Declaration is adopted.

7) Once a county committee has decided to approve a territory transfer, it must prepare and file a Notice of Determination (see Appendix I for a sample form) and a Certificate of Fee Exemption (De Minimis Impact Finding) (see Appendix J for a sample form) with:

   a) County Clerk of each affected county

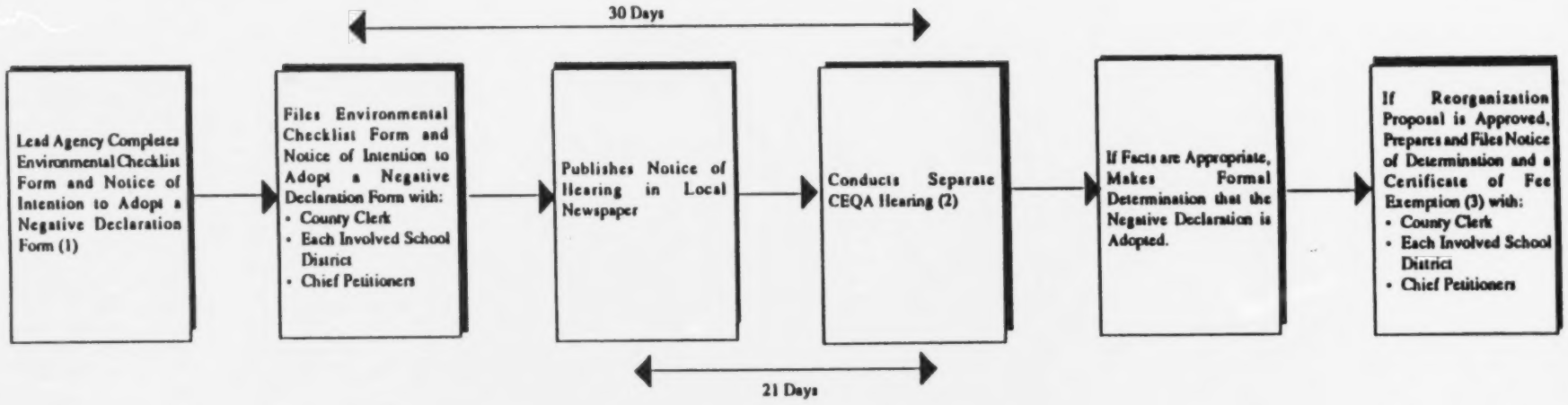
   b) Each affected school district

   c) Chief petitioners

FLOWCHART V-5

SCHOOL DISTRICT ORGANIZATION

California Environmental Quality Act (CEQA) Process


30 Days
Lead Agency Completes Environmental Checklist Form and Notice of Intention to Adopt a Negative Declaration Form (1)
Files Environmental Checklist Form and Notice of Intention to Adopt a Negative Declaration Form with:
• County Clerk
• Each Involved School District
• Chief Petitioners
Publishes Notice of Hearing in Local Newspaper
Conducts Separate CEQA Hearing (2)
21 Days
If Facts are Appropriate, Makes Formal Determination that the Negative Declaration is Adopted.
If Reorganization Proposal is Approved, Prepares and Files Notice of Determination and a Certificate of Fee Exemption (3) with:
• County Clerk
• Each Involved School District
• Chief Petitioners

(1) State Board of Education is the lead agency relative to unification proposals. County Committee is the lead agency relative to transfers of territory.

(2) CEQA hearing must be separate agenda item. May be held prior to the regular hearing regarding the reorganization proposal.

(3) De Minimis Impact Finding.

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CHAPTER VI

LEGAL CRITERIA GOVERNING REORGANIZATION PROPOSALS

This chapter discusses the requirements of Education Code Section 35753 in detail. Those requirements are the most important items to be evaluated in any school district reorganization proposal. Both the State Board of Education and county committees on school district organization are required to make determinations that the criteria are substantially met or that circumstances provide an exceptional situation sufficient to justify approval of the proposal. The chapter will be of particular value to members of county committees to assist them in understanding how the State Board of Education would apply the criteria of Section 35753.

VI. LEGAL CRITERIA GOVERNING REORGANIZATION PROPOSALS

The State Board of Education will hold public hearings on all petitions, other than those involving transfer of territory, upon receiving the plans and recommendations for a proposal from the county committee.

The State Board of Education also may review a petition for any reorganization (including a territory transfer) upon an appeal by the chief petitioners or the affected school districts. Appeals of decisions by county committees to the State Board of Education are allowed under the provisions of Education Code Sections 35710.5 and 35711.

The State Board may approve proposals for the reorganization of districts if the board has determined, with respect to the proposal and the resulting districts, that all the conditions under EC 35753 are substantially met. The standards in EC 35753 are minimum standards. Therefore, the State Board of Education has the discretion, if not the obligation, to approve a proposal that at least substantially complies with these standards. (*Hamilton* v. *State Board of Education*, [1981] Cal.App.3d 132, 141-142) A county committee probably has the same discretionary authority in approving territory transfers under EC 35707. These conditions, the statutes and regulations governing the conditions, and guidelines to evaluate the conditions are listed below. (EC 35753)

The provisions of EC 35753 must also be reviewed by a county committee before submitting a petition to the State Board of Education. Among several factors to be reported on by the county committee to the State Board of Education is whether or not the proposal would comply with the provisions of EC 35753. (EC 35707)

(Note: For a sample county committee procedure for applying the criteria of EC 35753, see Appendix E, "Criteria Affecting Reorganization Proposals.")

A. Conditions to Be Substantially Met

1. Number of Pupils: The new districts will be adequate in terms of number of pupils enrolled.

   Regulations: This topic is governed by 5 CCR 18573(a), which states that each such district should have the following projected enrollment on the proposal effective date:

Elementary School District	901
High School District	301
Unified School District	1501

2. Substantial Community Identity: The districts are each organized on the basis of a substantial community identity.

Regulations: This criterion is addressed by 5 CCR 18573(a)(3), which should be reviewed together with the following guidelines.

No single factor is likely to determine that community identity exists. The county committee will probably need to examine several attributes of the population and the makeup of the territory in question in order to make a judgment on this criterion. Some of the indicators the committee might study include types of housing, parks and recreation facilities and programs, sports activities, transportation patterns, geopolitical factors, and shopping patterns.

a. The similarity of architecture, size, and style of homes can create a sense of community identity. A homogeneous or consistent housing development would likely generate a sense of community among the residents.

b. The usage patterns of parks and school facilities for recreation programs and youth sports activities can indicate a community identity.

c. Traffic patterns and public transportation systems and routes may have an impact on community identity.

d. Geopolitical factors such as topography and city council, county supervisor, and special district electoral districts might also create a sense of community among the citizens of an area. Post office names and ZIP code areas also could contribute.

e. Neighborhood and regional shopping patterns are often well defined and play a part in the way people see themselves.

f. There is no legal necessity that school district boundaries match city boundaries.

3. Division of Property: The proposal will result in an equitable division of property and facilities of the original district or districts.

Statutes and Regulations: This criterion is addressed in 5 CCR 18573(a)(4), which should be reviewed together with the following guidelines. There are other Education Code provisions for the division of real and personal property that are adequate. In particular, refer to Education Code Sections 35560–35564 and 35570–35579. If a dispute arises concerning the division of real property, Education Code Section 35565 provides for binding arbitration of the dispute.

In reviewing the aspects of proposals dealing with school facilities, county committees should request long-range facilities plans from the affected districts. Those plans should include:

a. Demographic studies showing both current and projected student population data

b. Development of "study area" maps showing census tracts, boundaries, current and proposed zoning, and current and projected residential and commercial/industrial development

c. An evaluation and report of the utilization, capacity, and condition of existing school facilities

d. Development of a "comparison analysis" considering both existing and proposed divisions

4. Racial or Ethnic Discrimination or Segregation: The reorganization of the districts will not promote racial or ethnic discrimination or segregation.

   Regulations: See 5 CCR 18573(a)(5) for the regulations which address this criterion. The regulations should be reviewed together with the following guidelines. As a rule, local educational agencies have a constitutional obligation to prevent racial and ethnic segregation and to alleviate the harmful effects of segregation.

   The following tests are recommended:

   a. Each of the following items should be evaluated to determine whether any imbalance will be so disproportionate that realistically minority students will be isolated from other students and that all students will be deprived of an integrated educational experience. (*Crawford* v. *Board of Education of the City of Los Angeles* [1976] 17 Cal.3d.280, 304)

      1) The number and percentage of minority pupils from each racial or ethnic group at the school level in the affected districts

      2) The number and percentage of minority pupils from each racial or ethnic group at the district level

      3) The percentage of pupils from each racial and ethnic group of the districts in comparison with those of other districts in adjacent areas

      4) The demographic trends, forecasts, and rates of growth or change in the total enrollment of the districts affected and in each racial and ethnic group within the district as estimated from data that was readily available to each of the affected districts

   b. The school board has enacted policies regarding methods of preventing racial and ethnic segregation in the affected schools which actively support a goal of equal educational opportunity for participation and achievement among all racial and ethnic groups in academic programs and other school activities.

   c. The effect of distance, terrain, geographic features, capacity of schools, and related conditions or circumstances will not adversely affect the reasonable and

feasible efforts of the affected districts to provide integrated educational programs and experiences for all students.

5. Cost to State: The proposed reorganization will not result in any substantial increase in costs to the state.

   Regulations: See 5 CCR 18575(a)(2)(B) for the regulations governing this criterion. The county committee should review the regulations together with the following guidelines.

   The following factors should be considered in evaluating this criterion:

   a. The state's portion of the cost of the revenue limit of the district which is losing the students

   b. The state's portion of the cost of the revenue limit of the district which is gaining the students

   c. From the above, whether the state will contribute additional funding for the gaining district's revenue limit

   d. Other state special or categorical programs and the increased state costs if students transferring would qualify in the gaining district and not in the losing district

   e. The additional costs to the state if special or categorical programs cost per student are higher in the gaining district

   f. The effect on the districts' home to school and special education transportation costs and state reimbursements

   g. Additional state costs for school facilities

6. Educational Programs of Existing Districts: The proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue or promote sound educational performance in those districts.

   Regulations: Please note and review 5 CCR 18573(a)(6) when utilizing the following guidelines.

   Although is it difficult to accurately predict the changes that would occur in the educational program as a result of district reorganization, there are indicators that would be helpful to consider in making a decision on territory transfers.

   a. Most elementary schools, all middle schools, and 20 percent of California's high schools take part in a Program Quality Review once every three years. Most high schools participate in an accreditation review conducted by the Western Association of Schools and Colleges (WASC) at least every six years.

These reviews culminate in a comprehensive report that assembles information not only on student achievement but also on schoolwide concerns, such as planning, school climate and culture, and governance. While these are peer reviews that provide primarily qualitative data, they are especially effective in judging program quality when viewed in concert with quantitative data, such as the School Accountability Report Card (Proposition 98), produced by the district, and the School Performance Report, produced by the California Department of Education.

b. A centerpiece of these school "report cards" is the California Assessment Program (CAP), which has been a source of detailed information on student achievement for a number of years. CAP tests students at grades four, five, eight, and ten in basic skills and content courses plus a direct writing assessment. CAP reports provide statewide comparisons of school district performance plus comparisons to similar schools.

c. In making a determination about program quality, a committee would do well to consider a wide array of data. For high schools these indicators range from the number of Advanced Placement courses offered by the district to the dropout rate.

d. While past performance does not always predict future achievements, the academic track record of a district should certainly be considered when making a decision about reorganization. If a district has failed to perform over a significant period of time, it would be questionable to give a district responsibility for educating more students. However, if reorganization provides for a richer curriculum, more course offerings, and greater resources, the likelihood that educational performance will increase is enhanced.

7. School Housing Costs: The proposed reorganization will not result in a significant increase in school housing costs.

   Regulations: No regulations have been adopted on this subject; however, a good plan should provide a concise analysis of the availability of school facilities to house the pupils in the portion of the district being reorganized. If the reorganization is creating a new school district, there must be adequate school facilities to serve all grade levels. If an elementary district is unifying, there should be a plan for secondary facilities. In the past plans have been approved in which the newly unified school districts phase in secondary programs. When the reorganization is a transfer of territory, the plan should address whether or not the school district receiving the new students has adequate facilities to house the new students. If new facilities are required in either of the above cases, the plan should address how the facilities will be funded.

The following areas should also be addressed:

a. Local bonding capacity: Does the territory transfer reduce the assessed valuation of a district to a point where the bonding capacity might be impaired?

b. Developer fees: An analysis should be made of whether developer fees are imposed and of how income from developer fees might be affected. It should be determined whether developer fees have already been paid, whether they are due to the district losing or gaining the territory, and what the impacts are.

c. School property: If there is school property in the area to be transferred, the impact on each district should be determined. If an entire school is to be transferred, it should be determined how that district losing the school will compensate for the loss of facilities. If school sites are involved, it should be determined how each district's facility plan will be affected.

d. Leroy Greene State School Building Lease Purchase Program: It should be determined how the loss and gain of pupils will affect school districts' eligibility for state building funding.

8. Property Values: The proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to an adjoining district.

   Regulations: There are no regulations on this subject; however, the rationale proffered in the petition for the territory transfer should be analyzed. If the petitioners' rationale for the transfer appears questionable or not compelling, the county committee should at least consider whether increased property values might be the primary reason for the petition. The county tax assessor's office or local real estate firms could be consulted for advice on whether territory transfers might have an impact on property value and to what extent.

9. Fiscal Management or Fiscal Status: The proposed reorganization will not negatively affect the fiscal management or fiscal status of the proposed district or any existing district affected by the proposed reorganization.

   Regulations: There are no regulations on this subject; however, the Criteria and Standards adopted by the State Board pursuant to Education Code Section 33127 are recommended for evaluation of the financial condition of school districts affected by any proposed reorganization.

   The Criteria and Standards review process is designed to review a district's fiscal status. The county committee should evaluate how the reorganization will affect the district's fiscal status for the current and succeeding years. The county committee should review and consider any potential revenue gains and/or losses resulting from community redevelopment agency agreements or other pass-through

agreements, loss of incremental taxes, Mello-Roos Community Facility District funds, parcel taxes, certificates of participation (COPs), basic aid, tax overrides, mitigation agreements with developers, and any other categorical or specialized funds (e.g., Public Law 874 funds and Timber Reserves).

The best way to determine the fiscal management of the district is to utilize the Criteria and Standard Review Process utilized by county superintendents. This process employs state adopted standards and criteria to evaluate the fiscal health of a district. It is recommended that the county committee work closely with the staff of the county superintendent responsible for reviewing district budgets.

a. For information on how 1990-91 school district budgets were reviewed according to the Criteria and Standards, refer to Management Advisory 90-4, issued by the California Department of Education on April 30, 1990.

b. Other sources of information include the affected districts' annual audit reports completed by independent auditors.

B. Exceptional Situations

In considering proposals for unification, the State Board of Education must determine whether the criteria in Education Code Section 35753(b) were substantially met. However, that section of the law also gives the State Board the authority to depart from the criteria under certain conditions. Specifically, the Board may determine that it is not practical or possible to apply the criteria literally and that circumstances provide an exceptional situation sufficient to justify approval of the proposal.

In the 44 unification proposals prior to July, 1992, the State Board waived the district size criterion 19 times on the basis of such factors. In 5 CCR 18573, the minimum size for a unified district is supposed to be 1,501 students. In sparsely populated areas, it is often difficult to reach that number of students. The State Board has considered such factors as distance, weather conditions, geography, and topography in deciding whether to waive the size criterion.

C. Comparison of Statutory and Regulatory Requirements

Criteria Used by the State Board of Education in Considering Matters Relating to School District Organization

Education Code, Section 35753	Title 5, California Code of Regulations Section 18573
35753. (a) The State Board of Education may approve proposals for the reorganization of districts, if the board has determined, with respect to the proposal and the resulting districts, that all of the following conditions are substantially met:	18573. Criteria for Reorganization of School Districts. (a) The analysis of the proposal or petition by the Department of Education shall state findings of fact and recommendations as to whether each district affected by the proposed reorganization substantially meets the following criteria and standards:
(1) The new districts will be adequate in terms of number of pupils enrolled.	(1) It is the intent of the State Board that direct service districts not be created which will become more dependent upon county offices of education and state support unless unusual circumstances exist. Therefore, each district affected must be adequate in terms of numbers of pupils, in that: (A) Each such district should have the following projected enrollment on the date that the proposal becomes effective or any new district becomes effective for all purposes: Elementary District 901 High School District 301 Unified School District 1,501 (B) The analysis shall state whether the projected enrollment of each affected district will increase or decline and the extent thereof.

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Education Code, Section 35753	Title 5, California Code of Regulations Section 18573
(See Sec. 35753(a)(5) and (9) below.)	(2) Each district affected will be adequate in terms of financial ability if: (A) The revenue limit per unit of average daily attendance of the proposed district does not vary from the revenue limit per unit of average daily attendance in all of the affected districts by more than 15 percent, or (B) The proposal does not increase costs to the State for the affected territory by more than 10 percent.
(2) The districts are each organized on the basis of a substantial community identity.	(3) To determine whether the new district is organized on the basis of substantial community identity, the following criteria should be considered: (A) Isolation (B) Geography (C) Distance between social centers (D) Distance between school centers (E) Topography (F) Weather (G) Community, school, and social ties, and other circumstances peculiar to the area.
(3) The proposal will result in an equitable division of property and facilities of the original district or districts.	(4) To determine whether an equitable division of property and facilities will occur, the Department will determine which of the criteria authorized in Education Code section 35736 shall be applied. It shall also ascertain that the affected districts and the County Office of Education are prepared to appoint the committee described in Education Code Section 35565 to settle disputes arising from such division of property.

Education Code, Section 35753	Title 5, California Code of Regulations Section 18573
(4) The reorganization of the districts will not promote racial or ethnic discrimination or segregation.	(5) To determine whether the new districts will promote racial or ethnic discrimination or segregation, the Department, through the Bureau of Intergroup Relations, will consider the effects of the following criteria: (A) The number and percentage of pupils in each racial and ethnic group in the affected districts as proposed by the transfer of territory. (B) The number and percentage of pupils in each racial and ethnic group of the schools of the districts affected. (C) The number and percentage of pupils in each racial and ethnic group in the schools in the districts affected with those of other schools in adjacent areas of the districts affected. (D) The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the total districts, and in each school, of the districts affected. (E) The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts. (F) The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools. (G) The effect of the proposal on the duty of the governing board of each of the districts affected to adopt and implement a plan for the alleviation of segregation of minority pupils under Sections 90 through 101. (Note: Sections 90-101, 5 CCR have been repealed.)

Education Code, Section 35753	Title 5, California Code of Regulations Section 18573
(5) The proposed reorganization will not result in any substantial increase in costs to the state. (See also Sec. 35735, E.C., as amended by Chapter 83, Statutes of 1989.)	(See Sec. 18573(2)(A) and (B) above.)
(6) The proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue or promote sound educational performance in those districts.	(6) The proposal shall not significantly adversely affect the educational programs of districts affected by the proposal. In analyzing the proposal or petition, the Department shall describe the district-wide programs, and the school site programs, in schools not a part of the proposal that will be adversely affected by the proposal.
(7) The proposed reorganization will not result in a significant increase in school housing costs.	(No implementing regulation.)
(8) The proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to an adjoining district.	(No implementing regulation.)
(9) The proposed reorganization will not negatively affect the fiscal management or fiscal status of the proposed district or any existing district affected by the proposed reorganization.	(No implementing regulation.)
(10) Any other criteria as the board may, by regulation, prescribe.	(No implementing regulation.)

Education Code, Section 35753	Title 5, California Code of Regulations Section 18573
(b) The State Board of Education may approve a proposal for the reorganization of school districts if the board determines that it is not practical or possible to apply the criteria of this section literally, and that the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval of the proposals.	(b) The Board may waive the criteria specified in subsections (a)(1) through (a)(6) of this section and may approve a petition or proposal if the Board determines circumstances with respect to the petition or proposal provide an exceptional situation sufficient to justify approval.

CHAPTER VII

THE EFFECTS OF SCHOOL DISTRICT ORGANIZATION

In this chapter are listed the various effects of a school district organization change on a school district and its employees, property, funds, obligations, bonded indebtedness, and revenue limit. This information is of maximum value twice during the processing of a school district organization proposal. First, the legal requirements in this chapter are of particular use to petitioners, electors, and county committees when considering whether a school district organization proposal should be recommended for approval. Second, the chapter will be useful to new governing board members because these requirements must be implemented once the school district organization proposal has been approved and the voters in the district have said yes or no at the ballot box.

VII. THE EFFECTS OF SCHOOL DISTRICT REORGANIZATION

A. Employees Under Reorganization

1. Classified Employees

Education Code Section 35556 provides that "[the] reorganization of any school district or districts shall not affect the rights of persons employed in positions not requiring certification to retain the salary, leaves, and other benefits which they would have had had the reorganization not occurred." In a reorganization, the following general rules apply:

a. An employee of an original district which is included in a new district must become an employee of the new district. (EC 35556(a))

b. Employees of a district regularly assigned to the territory being lost to another district must become employees of the new district. Those whose assignments pertain to that territory, but who are not actually sited there, may elect to either remain with the original district or become employees of the new district. (EC 35556(b))

c. If a district's territory is completely absorbed into two or more districts, regular employees will become employees of the district acquiring the respective territory. Employees not assigned to specific territory within the original district will join the district of their choice. (EC 35556(c))

d. Employees regularly assigned to a particular school must be employees of the district in which the school is located. (EC 35556(d))

e. In a new unified district, non-certificated employees may continue in employment for not less than two years. (EC 45121)

f. As used in this section and in the subsequent section on certificated employees, "the school or other place in which any such employee is employed" and all references thereto includes, but is not limited to, the school services or school program which as a result of any reorganization of a school district will be provided by another district, regardless of whether any particular building or buildings in which such schoolwork or school program was conducted is physically located in the new district, and regardless of whether any new district resulting from such reorganization elects to provide for the education of its pupils by contracting with another school district until such time as the new district constructs its own facilities.

g. Permanent and probationary employees of districts, or employees at schools which become absorbed into unified districts, do not have the option of electing to remain with the original district in those circumstances cited above. (EC 44035 and 44803)

h. Except as stipulated above, nothing in the above will deprive the governing board of the acquiring district from making reasonable assignments of duties. (EC 35556(d))

2. Certificated Employees

The reorganization of school districts will not affect the classification of certificated employees already employed by any affected school district. The new district shall offer employment as follows:

a. Permanent employees assigned to a building located within the new district must remain at the school or facility to which they had been previously assigned, unless they elect to remain with the original district. (EC 35555, 44035)

b. Probationary employees assigned to a building located within the new district must be employed by the new district unless the probationary employee is terminated (layoff) by such a district prior to May 15 or dismissed prior to March 15. If employment continues, the probationary status must remain unchanged. (EC 44803, 44949, 44955)

c. Permanent employees must make the choice of district before February 1 of the year in which the reorganization becomes effective for all purposes. The request may be made by either the board of the new district or the board of the original district. (EC 35555)

3. Surplus Employees

If permanent employees elect to stay with the remainder of the original district in such numbers that the district does not have sufficient positions to accommodate all the employees, the surplus employees may be dismissed in reverse order of their seniority. (EC 44955)

Should the anticipated attrition of staff in the original district be approximately offset by the decline in enrollment in that district, including the loss of transferred students, this aspect may be used to diminish the number of offers of employment extended by the receiving district. (EC 44955)

4. Salaries After Reorganization

The power to determine salaries to pay employees resides with the governing board of a school district. The board must determine the salary policy of a newly created district. (EC 45022, 45160)

a. Non-Unified District

Education Code Section 35735 implies the state's approval of a revenue limit necessary to raise all salaries to the highest average salary. The new board may

or may not adopt a salary schedule equal to or better than the best salary schedule of the original districts. All employees are entitled to transfer to the new district the benefits they accrued prior to reorganization. (EC 44976, 44984)

b. Unified District

The board of a new unified district may or may not adopt a salary schedule equal to or better than the best salary schedule of the original districts. The board has the power to increase or decrease salaries, and the new board could establish a lower salary schedule for teachers, thus decreasing their salaries. However, all non-certificated personnel must, for a period of two years, receive salaries and benefits equal to those existing at the time of the election. (EC 45022, 45121, 45160) To recapitulate: A new unified board may reduce certificated employees' salaries but may not reduce non-certificated employees' salaries.

5. Adoption of Merit System

If the reorganized district contains all or part of a former district for which a merit system had been adopted, that merit system must be adopted by the reorganized district if the number of employees from the merit system district equals or exceeds the number of classified employees of the non-merit system, acquiring district. If this condition is not met, the reorganized district must adopt the merit system only if an election for this purpose is requested and the adoption is approved at the election by the classified employees of the reorganized district. (EC 45120)

6. Role of Public Employment Relations Board

The Public Employment Relations Board (PERB) has jurisdiction over employer-employee relations matters affecting all school districts. School districts and exclusive bargaining representatives for employees should be advised to contact PERB to determine whether employee unions in the former district(s) must be recognized in the new or reorganized district(s) and to determine the future validity of existing collective bargaining agreements.

Statutory provisions relating to the PERB's formation, its powers and duties, and procedures for handling charges of unfair labor practices are found in Government Code Sections 3541-3541.5.

B. Disposition of Records, Funds, Property, and Obligations

1. Property

The allocation of various properties is often made part of the transfer agreement, having been specified either by the petitioners or the county committee. When terms and conditions of transfer are not specified, real property and the personal

property and fixtures normally situated at the site must belong to the district in which the real property is located. All the other property, funds, and obligations (except bonded indebtedness) must be divided pro rata among the districts in proportion to the assessed value of the transferred territory within each district unless otherwise stipulated in the plans and recommendations of the county committee. Other bases for distributing properties that may be used are revenue limit, average daily attendance (ADA), value and location of property, or any other equitable means. (EC 35560, 35736)

2. Funds from the Sale of Bonds

   Funds from the sale of previously issued school bonds may be used for the acquisition, construction, or improvement of only that school property which was a part of the former district or for such use in that same district. However, if the new district accepts and assumes the former district's bonded indebtedness, the funds may be used anywhere in the new district and for the same voted purpose. (EC 35561)

3. Records

   In the case of a district which has been totally absorbed by two or more districts on the same effective date, the required records must be deposited with the district within which the office lies. Thereafter, employee records will go to the employees' respective employers, or last employers. Pupil records go to the district maintaining the school of the respective student's last enrollment. (EC 35562)

   In this same case, the county superintendent of schools who has jurisdiction over the original district shall assume all responsibility for the following: (EC 35563)

   a. Completing all records and reports

   b. Paying all outstanding obligations, except those resulting from contracts to be assumed by the new districts

   c. Preparing for proper filing of all records required to be kept permanently

   d. Distributing records of employees, students and others, as required by law

   e. Employing an auditor as required by Section 41020

   f. Discharging such other functions as shall be deemed necessary

   In fulfilling the above responsibilities the county superintendent may request help from the districts involved, and they shall release such employees to the county superintendent as are needed to carry out these responsibilities. Salaries and expenses of these employees must be paid from accumulated funds of the dissolved district. (EC 35563)

4. Student Body Property, Funds, and Obligations

   If a reorganization occurs so that a portion of the students are no longer residing in the original district, then the property, funds, and obligations of the former student body must be divided among districts by the county committee, providing that no share will exceed the proportion of students leaving to those enrolled. Such assets/liabilities must be transferred to the school where the respective students are enrolled. Funds from devises, bequests, or gifts must not be divided and will remain with the school where originally received. (EC 35564)

5. Dispute over Disposition of Funds or Property

   A board of arbitrators will be appointed to resolve any dispute over disposition of funds or property. The board must consist of one member appointed by each district and one appointed by the county superintendent of schools having jurisdiction. By mutual accord, the county member may act as sole arbitrator; otherwise, arbitration will be the responsibility of the entire board. Expenses will be divided equally between the districts. The written finding and determination of the majority of the board of arbitrators is final, binding, and non-appealable. (EC 35565)

6. Property Tax Revenue

   Section 99 of the Revenue and Taxation Code provides for the reallocation of the property tax revenue when jurisdictional changes occur in the taxing agencies. Subdivision (b) of that Section requires that the county assessor provide to the county auditor, within 30 days of receiving notification of the change of jurisdictions, a report which identifies the assessed valuations for the territory. The county auditor then estimates the amount of property tax revenue which is generated in the territory whose jurisdiction is changed. The auditor notifies the governing boards involved of the property tax revenue generated by the reorganized territory.

   Subdivision (h) provides that the affected governing boards must negotiate the exchange in tax revenue between the districts, and, if they are unable to do so within 60 days after the effective date of the change, the county board of education must determine the amount of property tax revenue to be exchanged. If the affected districts are in more than one county, the State Board of Education decides the property tax revenue exchange.

   In most cases, all of the tax revenue from the territory being reorganized would be transferred to the district receiving that territory. However, it is clear from Section 99 that the tax revenues to be transferred are subject to negotiation. This exchange of tax revenue could also be set forth in the petition to reorganize districts.

7. State-aided Districts

When a state-aided district which received state housing aid is annexed to or by change of boundaries or otherwise is included in whole or in part in another district or districts, the superintendent of schools must, within ten days after the effective date of such change, file a certificate with the State Allocation Board in such form as the board shall prescribe. (EC 16166)

Whenever a state-aided district is included in whole in another district, the acquiring district will succeed to and be vested with all responsibilities of the state-aided district with respect to the apportionment and the property acquired. (EC 16157)

Whenever territory is withdrawn from a state-aided district and no portion of the apportionment was expended for school property acquired by the acquiring district, then: (EC 16163)

a. If the acquiring district is a state-aided district, repayments after reorganization will be determined on the basis of the new assessed valuations of the districts.

b. If the acquiring district is not a state-aided district, the State Controller must determine the percentage relationship, at the time of withdrawal, between:

   1) The assessed valuation of the territory acquired together with the current assessed valuation in all other territory theretofore acquired by the acquiring district from the state-aided district since the date of its first conditional apportionment

      and

   2) The current assessed valuation of the state-aided district at the time of withdrawal.

c. If the percentage calculated under (b) above is less than 10 percent, the liability for repayment of the state aid obligation must remain with the state-aided district.

d. If the percentage calculated under (b) above is equal to or more than 10 percent, the liability for repayment must be apportioned between the state-aided district and the acquiring district in relation to the percentage calculated.

   Whenever less than all of a state-aided district is included in another district and a state-aided facility is located in territory transferred, the Director of General Services must determine what portion of the total apportionment to the original district was expended for property acquired by the acquiring district. The acquiring district will become liable for the repayment to the State of that portion of the annual repayments determined as the greatest of the amounts of: (EC 16159)

That portion of the apportionment which the Director of General Services has determined was expended for property acquired by the acquiring district

or

The percentage that the assessed valuation in the territory of the state-aided district which was transferred to the acquiring district is to the total assessed valuation of the state-aided district immediately preceding the effective date of the transfer.

8. Distribution Process

While the Education Code specifies the particulars of the division of property, it does not specifically address the method under which this distribution must take place. Where a sizable amount of property is involved, the county committee may want to ensure that an equitable process for distribution, agreed upon by all districts involved, will be established before the proposal is submitted to the State Board of Education or the electorate. (EC 35705.5, 35736)

The following illustrates methods which may be utilized by the county committee to ensure equitable distribution of personal property. They are suggestions only, and each committee should evaluate the process and make appropriate adjustments to fit their local conditions.

a. Personal property may be appraised for all purposes at current market value as of June 30 of the school year prior to the date that the new district becomes effective. This may be done by a certified appraisal firm selected by the county superintendent from a list submitted by each of the involved districts.

b. All personal property must be listed on an inventory, by category, specifying the current market value.

c. The total value of the personal property must be distributed on the basis of the ratio which the assessed valuation of each proposed district bears to the total assessed valuation of the area. (EC 35560, 35736)

d. The districts must draw lots to determine which shall have first choice and which shall have second choice. The order must be rotated after each list of 10 items is selected.

e. Items must be made available in lots of ten. The person whose turn it is to select first may purchase his/her share (ratio) of the ten items or may elect to decline to purchase any of the items in that lot of ten items. This process must continue until all property has been distributed and all money credits expended.

f. Should one district decline to select a sufficient number of times so that items are remaining at the time when the other district(s) has expended its credit, the

remaining district must receive all items remaining, and the distribution shall be deemed completed.

g. The necessary expenses and compensation of the appraisal must be prorated and paid by each district on the basis of the ratio of assessed valuation. Other bases for prorating may be utilized. (EC 35736)

C. Bonded Indebtedness

1. Limitation on Reorganization

"No territory shall be taken from any school district having any outstanding bonded indebtedness and made a part of another district where the action, if taken, would so reduce the last equalized assessed valuation of a district from which the territory was taken [so] that the outstanding bonded indebtedness of the district would exceed 5 percent of the assessed valuation remaining in the district for each level maintained, on the date the reorganization is effective. . . ." (EC 35572)

2. Merger

In case of a merger the single resulting district becomes liable for all outstanding bonded indebtedness of those districts merged. (EC 35573)

3. Annexing Territory with No Property or Buildings

Annexed territory with no school property or buildings drops all liability to the former district but must automatically assume a proportionate share of the new district's bonded indebtedness. (EC 35575)

4. Annexing Territory with School Property and/or Buildings

The receiving district takes possession of property and/or buildings on the day of annexation for all purposes. The transferred territory drops all liability to the former district and assumes a proportionate share of the new district's bonded indebtedness. (EC 35576)

5. Payment for Loss of Assessed Value

When territory containing real property is transferred, the acquiring district must take possession of the real property and provide compensation as specified by the county committee or the *greater* of the following:

a. That ratio of the losing original district's bonded indebtedness that equates to the transferring territory's proportion of the losing original district's assessed value

or

b. That portion of the original district's assessed value that was incurred for property acquisition and/or improvement within the transferring territory. (EC 35576(b), 35738)

6. Computation of Annual Tax Rate

The county board of supervisors must compute the appropriate annual tax rate for bond interest and redemption. The county board must also compute tax rates for both the annual charge and the use charge for county school service fund programs. (EC 35576)

7. Authorized but Unsold Bonds

In the case of a district which is completely divided into two or more other districts, the county board of supervisors must certify that prior authorization to issue bonds be divided in the same proportion as the transferred territory's assessed valuation was to its original district's assessed valuation. Such bonds, if issued, are the new district's liability (when applying Chapter 8 of State Building Aid Law of 1952). (EC 35577)

When one district is annexed as a whole into another, its unsold bonds may be issued by the board of supervisors on behalf of the new district, providing that such funds be expended only for the purpose(s) for which the bonds were originally authorized. (EC 35578)

If the board of supervisors chooses to issue the bonds in the names of the old district, the bonds still remain the liability of the new districts when the new district's bonding capacity is computed and/or when aid is applied for under the State School Building Aid Law of 1952, Chapter 8 (commencing with Section 16000) of Part 10. (EC 35579)

D. Revenue Limit of New District

Education Code Section 35735 requires that (1) the methods used to adjust the revenue limit take into account the effect of differences between the average level of salaries and benefits separately for certificated and classified employees of the districts involved; and (2) the revenue limit of the reorganized district take into account the proportion of ADA allocable to the several districts involved.

1. Rules for Calculation of Revenue Limit

a. Reorganization blends revenue limits proportional to ADA.

The new law requires that annexations, along with all other forms of district reorganization (unifications, territory transfers, etc.), result in a recalculation of the revenue limit for the reorganized (i.e., "new") district. This means that the reorganized district will have a revenue limit which is weighted proportionally to the ADA levels and revenue limits of the several districts involved. The

following illustration provides an example of how this calculation would be made where districts are combined through annexation. Note that it makes no difference which district annexes and which is annexed:

$$\frac{(\text{Dist.1 Rev. Limit} \times \text{Dist.1 ADA}) + (\text{Dist.2 Rev. Limit} \times \text{Dist.2 ADA}) + (\text{Dist.3 Rev. Limit} \times \text{Dist.3 ADA})}{(\text{Dist.1 ADA} + \text{Dist.2 ADA} + \text{Dist.3 ADA})}$$

The resultant revenue limit calculation "blends" the former districts' revenue limits, based proportionally on their respective levels of ADA. It makes no difference how many districts are involved.

b. Salary and fringe benefits are treated as a single item of compensation.

When districts reorganize, the law permits recognition of compensation cost impacts through an adjustment to the revenue limit of the reorganized district. Average salary and fringe benefit levels for classified and certificated personnel must be treated as a single item of compensation and may not be calculated separately. This adjustment to the revenue limit takes into account the number of employees affected and the ADA of the districts involved, as in the following illustration:

	Average salary and benefit costs per employee	Number of employees	District ADA
District 1	$30,000	100	2,500
District 2	$28,000	80	2,200
District 3	$33,000	120	2,900
TOTALS		300	7,600

The calculation to adjust the revenue limit would be made as follows:

$$\frac{[(\$33{,}000-\$30{,}000) \times 100] + [(\$33{,}000-\$28{,}000) \times 80] + [(\$33{,}000-\$33{,}000) \times 120]}{2{,}500 + 2{,}200 + 2{,}900}$$

The result of this calculation is $95.11 per ADA, the adjustment to the revenue limit per ADA of the reorganized district. (The law specifies that this calculation be made both for classified and certificated employees.) For transfers of territory, the law requires that the number of employees used in this calculation be based upon those who actually would be affected by the reorganization proposal and not the entire employee population of the affected district.

Note: Limits on Adjustments to Revenue Limit for Salary and Fringe Benefit Costs

Education Code Section 35735 raises the floor for the revenue limit adjustment for higher average salary and benefit costs from 10 percent to 25 percent. This means that unless a district, or portion of a district, affected by a reorganization proposal contains at least 25 percent of the total number of certificated and

classified employees in the proposed reorganized district, the average compensation cost per employee for that district may not be considered in arriving at a revenue limit adjustment. This means, in the above example (b), that any one of the involved districts must have a minimum of 75 employees (300 total employees x 25%) in order for that district's average salary and benefit cost to be considered in calculating this adjustment to the revenue limit of the reorganized district. In the above example, all three districts would qualify.

2. Limits on Revisions to Adjustments to Revenue Limits

   Pursuant to Section 35735 of the Education Code, any adjustments to the district revenue limit which result from implementation of a district reorganization proposal:

   - Must be based on the revenue limit in force during the second fiscal year prior to the fiscal year in which the reorganization becomes effective; that is, for reorganizations which would take effect on July 1, 1992, the revenue limit adjustment must be based on the revenue limit in force in FY 1990-91.
   - Must not depart from the calculation included in the reorganization proposal (which was approved by the county committee on school district organization and the State Board of Education), and can be modified for effects of inflation (i.e., COLA authorized for the succeeding years) or other adjustment to which the reorganized district would have been entitled.

3. Revenue Limit Adjustments Following Effective Date of Reorganization

   Education Code Section 35735 adds a new provision to the Education Code that discourages district reorganization proposals intended primarily for the purpose of securing increases to district revenue limits through annexations involving districts with very high revenue limits. Section 35735 now includes a new subdivision (c), which adds the following restriction:

   "Where the territorial jurisdiction of any school district was revised pursuant to a unification, consolidation, or other reorganization, occurring on or before July 1, 1989, that resulted in a school district having a larger territorial jurisdiction than the original school district had prior to the reorganization, and a reorganization of school districts occurs on or after the effective date of the act that added this subdivision that results in a school district having a territorial jurisdiction that is substantially the same, as determined by the State Board of Education, as the territorial jurisdiction of that original school district prior to the most recent reorganization occurring on or before July 1, 1989, the revenue limit of the school district resulting from the subsequent reorganization shall be the same, notwithstanding subdivision (a), as the revenue limit that was determined for the

original school district prior to the most recent reorganization occurring on or before July 1, 1989."

Where this circumstance is found to have taken place, by action of the State Board, the district(s) involved will lose the revenue limit adjustment obtained through the previous reorganization and, consequently, will lose revenue limit income.

4. Limitations on ADA Payable Under Pupil Transfer Agreements

   Section 35735 of the Education Code limits the fiscal effect of pupil transfer agreements. Its purpose is to remove fiscal incentives for such agreements. As a result, no transfer of seventh and eighth grade pupils from an elementary school district to high school district, or vice versa, shall result in the receiving district getting a revenue limit apportionment for those pupils which exceeds 105 percent of the statewide average revenue limit for the receiving district's type and size.

5. Effective Date of Changes

   Reorganization actions occurring on or after July 1, 1989, but approved by the voters at an election held prior to that date will continue to be governed by prior law.

6. Conclusion and Comment

   a. Education Code Section 35735 places additional responsibility on the California Department of Education to ensure that the actual adjustments made to the revenue limit of reorganized districts are consistent with the proposal approved at the local level by the county office and the voters and at the State level if the proposal requires action by the State Board of Education. The Education Finance Division will make these determinations. County offices of education will need to take particular care in reviewing reorganization proposals to ensure that revenue limit determinations under the new methodology are made correctly.

      Districts are cautioned that the general information provided herein, concerning rules governing revenue limit adjustments, may not be sufficient to accurately calculate the changes in income associated with actual reorganization proposals. It is recommended that districts and county offices currently engaged in or planning specific reorganization proposals contact the Principal Apportionments Unit, Education Finance Division at (916) 445-4766 for assistance in performing the appropriate revenue limit recalculations.

   b. County offices of education and county committees on school district organization should make certain that official notification concerning impending district reorganization proposals is made to the California Department of Education's Office of Auxiliary School Business Services in the School Business Services Division at (916) 322-6029. This should take place

initially at the time such reorganization petitions are determined to be sufficient. (EC 35704)

In addition, before proposals for district reorganization are submitted for final approval by local voters and/or before being approved by county committees on school district organization, further notification to the California Department of Education is necessary, including the Principal Apportionments Unit and the Office of Auxiliary School Business Services. Such notification should include a copy of the petition for reorganization and a copy of the report concerning the petition prepared by the county committee on school district organization (i.e., findings under Education Code Sections 35707 and 35724). The report should address all nine criteria specified in EC 35753, including the specific facts, reasons, and rationale used by the committee in making its findings (transcripts or minutes of meetings are useful if available). The more complete the record is that is submitted to the Department of Education, the easier it is for the Department of Education to make its recommendation to the State Board of Education, which in turn may enhance the possibility that the county committee's decision will be affirmed. In addition, the committee should also provide the assumptions used to develop the revenue limit adjustment calculations (i.e., requirements identified in Education Code 35735).

Failure to provide such notification and supporting information concerning the fiscal impact of the proposed reorganization may result in the reorganized district receiving less revenue than anticipated. This situation could occur in cases where the California Department of Education had not had the opportunity to review the revenue limit calculations prior to the decision at election by voters in the districts affected.

c. Districts should direct questions concerning reorganization procedures to the local county committee on school district organization at the county office of education. County offices should direct their questions to the California Department of Education's Office of Auxiliary School Business Services at (916) 322-6029.

E. Completion and Effective Dates

1. Completion of Reorganization Action

A reorganization action is complete when the board of supervisors, upon receiving proper evidence that such action was approved as provided by law, makes an order to create, change, or terminate the appropriate school boundaries. (EC 35530, 35765) Education Code Sections 1043 and 1080 allow the transfer of responsibilities of the county board of supervisors to the county board of education. In those counties in which such action has resulted in the responsibilities for school district organization being transferred to the county board of education, making the

order to create, change, or terminate the appropriate school boundaries may be the responsibility of the county office of education.

2. Effective Date of Change

   Boundary or status changes due to a reorganization must be effective upon the date all the following are completed (EC 35532):

   a. Determination of the assessed valuation of any district(s) affected by the action

   b. Appointment or election of members of the governing board

   c. Preparation and submission of the school district budgets

   d. Election or appointment of an executive officer and other employees required to service the immediate needs of the district

   e. Election or appointment of employees for the ensuing school year

   f. Calling and conducting of any elections authorized by law relative to the financing of the district, including bonded indebtedness tax rates and State School Building Fund

   g. Expenditure of funds available to the district

   h. Exercise by the governing board of the school district of other powers and duties vested in governing boards of the districts of the same type or class and not inconsistent with other provisions of this code

   i. Receipt and expenditure of funds transferred pursuant to Education Code Section 42623

   j. Issuing and selling of bonds

   The reorganization will be effective for all purposes on July 1 of the calendar year following the calendar year in which the board of supervisors ordered the action. (EC 35534)

3. Continuation of Existing Governing Board

   In a district which has been wholly absorbed, the governing board will continue to function and have all powers and duties until the action is effective for all purposes. (EC 35533)

4. Powers of a New Governing Board to Secure Options

   A newly created governing board may secure options to purchase land and issue bonds as soon as it has been appointed/elected and the respective districts have been named. (EC 35536)

CHAPTER VIII

PUBLIC HEARINGS AND ELECTION PROCEDURES

This chapter lists the requirements for elections and public hearings as they pertain to school district organization. The calendar for elections as well as setting the area in which to conduct the elections are also covered. The area of election has been the subject of several significant court decisions making this chapter of particular value to legal counsel involved in school district organization proposals. County committee members and petitioners for school district organization change will also find the information useful.

VIII. PUBLIC HEARINGS AND ELECTION PROCEDURES

A. Public Hearings

1. Required Public Hearings

   Public hearings are required by the Education Code at various stages of the reorganization process. Public hearings called and conducted by the county committee are required as follows:

   a. Reorganization by County Committee's Recommendation. When the county committee, on its own initiative, proposes a plan for reorganization of any area, a public hearing must be held within the affected area. One or more public hearings must be held in the area proposed for reorganization between the time of adoption of a tentative recommendation and the time of adoption of a final recommendation. (EC 35720.5)

   b. Reorganization by 10 percent of District Voter Petition Method. A public hearing must be held at a regular or a special meeting. Following this hearing, the committee must grant or deny the petition. If the petition is granted, a tentative recommendation must be adopted, following which the county committee must hold one or more public hearings in the affected school districts. (EC 35721)

   c. Reorganization by 25 percent Voter Petition Method. At least one public hearing in each of the affected school districts is required to be held by the county committee within 60 days of receipt of the petition from the county superintendent. (EC 35705)

   d. Changing Trustee Areas. When any proposal is made to establish trustee areas, rearrange the boundaries of trustee areas, or increase to seven or decrease to five the number of members of a governing board, the county committee must call and conduct at least one public hearing in the district on the matter. (EC 5019)

   e. California Environmental Quality Act (CEQA) Hearing. When a county committee considers a proposal to transfer territory, it becomes, for purposes of CEQA, the lead agency. As such, it must conduct an initial study and hold a hearing. See Chapter V, Section D, "Environmental Concerns."

2. Other Public Hearings

   At its own option, the county committee may call and conduct additional public hearings over and above what is required by the Education Code and may hold a public hearing regarding any matter pending before it. The committee may also designate any member to hold and conduct any public hearing after giving notice in the manner described below.

3. Notice of Hearings

The public hearings required by the Education Code must be called:

a. In the case of a hearing on a "25 percent voter" petition, by sending a notice to the governing board of each school district involved and to the persons designated as the "chief petitioners" and to all persons who have requested notice of the hearing at least 10 days prior to the hearing. (EC 35705)

b. In the case of a county committee proposal (without or after a "10 percent voter study" petition), by sending a notice to the governing board of each school district involved and to the chief petitioners as appropriate at least 10 days prior to the hearing. (EC 35705, 35720, 35721)

This notice of a public hearing must be either:

1) Posted at three public places in the districts involved and at every schoolhouse in each district involved (EC 5362, 35720.5)

or

2) Published in a newspaper of general circulation published within the district, or, if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district. (EC 5363, 35720.5)

The notice must contain information about the time, place, and purpose of the hearing. (EC 35720.5)

4. Public Hearing Procedures

There are no Education Code requirements for the procedures relating to public hearings; therefore, it is suggested that the county committee conducting such hearings adopt a set of rules under which public hearings are conducted. The following outline of procedures has been adopted by the Santa Clara County Committee on School District Organization. These steps are suggestions only and may be changed to accommodate the individual agency's desires and mode of operation.

a. At or before the hearing at which oral comments from the public are to be received, the county committee may determine the total amount of time that will be devoted to hearing such oral comments and may determine the time to be allotted to each person or to each side of an issue.

b. The notice of the hearing may include an encouragement of persons wishing to address the committee to preregister their intentions with the committee.

c. At the hearing, members of the public may be recognized by the chair to speak. All remarks made must be germane to the business at hand and must be

addressed to the chair. No person other than the person having the floor and members of the county committee will be permitted to enter the discussion.

d. Public speakers must not directly question individual members of the county committee without the express permission of the chair, nor will individual committee members address questions directly to the speaker without the permission of the chair. Public speakers must not relinquish their time to others without the approval of the chair.

e. Demonstrations, banners, and distribution of literature will not be permitted before or during the public hearing, nor will solicitation of signatures for petitions be permitted.

f. At the start of the hearing, the rules of order for the hearing should be stated by the chair. Two samples of the procedures for a public hearing are shown on the following pages.

SAMPLE:

COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

SUGGESTED

PUBLIC HEARING PROCEDURES

All persons who have either signed up prior to the beginning of the public hearing or contacted _____ by telephone or in writing prior to _____ p.m. on _____ will be allowed to speak. The order of speaking will be determined by the order of receipt of requests.

Those persons wishing to speak but not able to preregister *may be allowed to speak* if the committee chair wishes to recognize them. Those persons may be heard only after all preregistered persons have been heard.

No person will substitute for another person registered to speak without approval of the chairperson. If the preregistrant is absent and approval has not been granted to a substitute speaker, the chairperson will go on to the next name.

ORDER OF SPEAKING

1. Major spokesperson FOR the petition—15 minutes
2. Major spokesperson AGAINST the petition—15 minutes
3. Speakers representing affected school districts—5 minutes each
4. Pre-registered speakers—4 minutes each
5. Requests from the floor, if recognized by the chair—4 minutes each

No "pro" or "con" literature may be distributed before, during, or after the public hearing by any person or organization, nor may any signatures for petitions be solicited.

NOTE: This process has been adopted by the Santa Clara County Committee on School District Organization.

SAMPLE:

PUBLIC HEARINGS

AGENDA GUIDELINES

1. Introduction of Committee Chairperson

   Responsibilities/Mission ..... No time limit

2. Explanation of the Proposal by Secretary

   Presentation of Facts ..... No time limit

3. Explanation of Guidelines by Chairperson ..... No time limit

4. Petitioners..... 20 minutes maximum

5. Districts Involved

   Board Members
   Superintendents..... 20 minutes each district maximum

6. Proponents..... 45 minutes maximum; each speaker limited to five minutes maximum (time may be shortened at the discretion of the chairperson)

7. Opponents..... 45 minutes maximum; each speaker limited to five minutes maximum (time may be shortened at the discretion of the chairperson)

8. Summation/Closing Statements

   Proponents..... 5 minutes maximum
   Opponents..... 5 minutes maximum

NOTE: At the second hearing, numbers 4 and 5 will be in reverse order, and numbers 6 and 7 will be in reverse order.

NOTE: This process has been adopted by the Los Angeles County Committee on School District Organization. The State Board of Education, at its hearings on district unification proposals, allows a maximum of 30 minutes total for each side of the issue, plus a maximum of 5 minutes rebuttal time.

B. Elections

Elections for reorganization proposals are conducted in the same manner as elections for governing board members (EC 5000 et seq., 35710, 35756, et seq.). Elections Code Section 23511 also contains provisions governing elections and posting of notices for elections.

1. Transfer Without Elections: An election is *not* necessary to transfer territory from one district to another if the transfer approved by the county committee:
   a. Involves uninhabited territory *and*
      1) The owner(s) has consented to the transfer *and*
      2) The governing boards of all affected districts have consented to the transfer

      or
   b. Involves inhabited territory *and*
      1) The territory is less than 10 percent of the assessed valuation of the district losing the territory *and*
      2) All the governing boards have consented to the transfer. (EC 35709)
2. Transfer with Elections: An election is necessary to transfer territory from one district to another if, with respect to the approval by the county committee:
   a. One or more of the owners of uninhabited territory object to the transfer (EC 35709) *or*
   b. One or more of the governing boards of a district affected by the transfer object to the transfer (EC 35709) *or*
   c. The petition involves 10 percent or more of the assessed valuation of the district losing the territory. (EC 35710)
3. State Board of Education Elections: The State Board of Education must call an election whenever it approves a petition or plan for reorganization. It does so by notifying the county superintendent having jurisdiction over the districts affected (EC 35755), who then must call the election within 20 days. (EC 35756)

Table VIII-A on the following page provides the reader with a sample overview of the time lines and events surrounding the election process.

TABLE VIII-A

SAMPLE

TIME LINE FOR REORGANIZATION ELECTION

DAY	DATE	EVENT	Code Ref.
1	20-Jun-93	County Superintendent receives notification of approval from State Board of Education.	Ed. Code § 35755
20	10-Jul-93	County Superintendent calls election.	Ed. Code § 35756
		County Superintendent prepares statements.	Ed. Code § 35757
		County Superintendent causes pro, con, and rebuttal arguments to be filed.	Ed. Code § 35758
		County Counsel submits impartial analysis.	El. Code § 5321
		Rebuttal arguments submitted.	El. Code § 5325
25	14-Jul-93	First day to file for board election	Ed. Code § 5012
52	11-Aug-93	Last day to file for board election if incumbents file for re-election	Ed. Code § 5012
57	16-Aug-93	Last day to file for board election if incumbent does not file	Ed. Code § 5012.5
140	7-Nov-93	Election day	
142	9-Nov-93	County Clerk begins official count of results.	El. Code § 17081
153	20-Nov-93	County Clerk certifies election results.	El. Code § 17081
160	27-Nov-93	County Superintendent certifies election and calls first meeting of governing board.	Ed. Code § 35102
192	29-Dec-93	County Superintendent notifies appropriate agencies.	Ed. Code § 35763
192	29-Dec-93	Board of Supervisors enters order to create and/or change boundaries.	Ed. Code § 35765
192	29-Dec-93	Board of Supervisors files boundary changes with State Board of Equalization.	Gov. Code §§ w/ 54900, 54901, 54902, 54903.1

4. Supporting Actions

   a. Calling Elections

      Subsequent to the approval of any reorganization proposals, the State Board of Education must provide notice to the county superintendent of schools having jurisdiction over the affected districts. (EC 35755) Within 20 days after receiving the notification from the State Board of Education or from the county committee (EC 35710), the county superintendent of schools must call an election, to be conducted at the next available regular election, in the territory of districts as determined by the State Board of Education or as determined by the county committee. (EC 35756)

   b. Statement of Official Information and Statistics

      The county superintendent of schools must prepare a statement of official information and statistics relating to the proposed reorganization which must include, but is not limited to, the plans and recommendations, the revenue limit per pupil, the rate of growth, the expected enrollment, and the support from the state which can be expected if such area maintains an adequate school program. Such information must be based upon the school year last completed before the date of the election. (EC 5757)

   c. Arguments for and Against the Measure

      The county superintendent of schools is responsible for having the arguments for and against the ballot measure prepared and distributed. The argument shall not exceed 500 words.

      The argument in favor of the recommendation must be prepared by the president of the county board (county committee) or by a proponent of the recommendations designated by the president.

      The argument against the recommendations must be prepared by a member of the county board (county committee) who voted against the recommendations or, if no member is opposed, by an elector designated by the county superintendent of schools (county committee chairperson) who has appeared before the board or at a public hearing in opposition to the recommendation. (EC 35758)

      Arguments must be submitted to the County Clerk (Registrar/Recorder) within a time frame as specified by the County Clerk which provides for a time reasonably necessary to prepare and print the arguments and to permit the ten calendar-day public examination (Elections Code 5323)

   d. Rebuttals to Arguments

The County Clerk must send copies of the argument in favor of the measure to the author of the argument against, and copies of the argument against to the author of the argument in favor. Rebuttal arguments must not exceed 250 words.

The rebuttal arguments must be filed with the County Clerk not more than ten days after the final date for filing direct arguments. (Elections Code 5325)

e. Cost of Election

The cost of preparation and distribution of the arguments, the recommendations of the county board (county committee), and the cost of any election held pursuant to Article 4 of the Education Code, must be a charge against the general fund of the county. If the reorganization involves a district situated in more than one county, the cost of the election must be prorated against each county in the same proportion as the assessed valuation of the territory of the proposed new district residing in such county bears to the total assessed valuation of the proposed new districts. Assessment of election costs may be different in fiscally independent counties. In such cases, the documents authorizing fiscal independence would be controlling. (EC 35759)

f. Campaign Literature; Reorganization Measure

Any written material or other campaign literature which is designed to promote either the passage or defeat of a ballot measure relative to the reorganization of school districts must bear on its face, in a conspicuous place, either of the following:

1) The names and residence addresses of the chair and secretary or the names and residence addresses of at least two officers of the organization issuing it, if issued by an organization, *or*

2) The name and residence address, with the street and number, if any, of any individual responsible for it, if issued by an individual or individuals.

If any person believes that campaign literature contains false and misleading statements, he or she may bring an action in the superior court for injunctive relief against further circulation of the literature, and if the court finds that the literature does, in fact, contain false and misleading statements, it may enjoin any further circulation of the literature. (EC 35760)

g. Election: Wording of Ballot Measure

The words to appear on the ballot for a reorganization measure shall be:

1) Reorganization of school districts—Yes

2) Reorganization of school districts—No

Similar words may be used. If the reorganization plans include a proposal for trustee areas, then such proposal must be considered a part of the reorganization proposition to be voted upon, and the ballot shall include wording to that effect. (EC 35762)

h. Notice of Election Results

The county superintendent of schools, upon the completion of the canvass of the election returns, must notify the State Superintendent of Public Instruction, the board of supervisors, and the governing board of each affected school district of the number of votes cast for, and the number of votes cast against, the reorganization of school districts in each school district and also the total number of votes cast for, and the total number of votes cast against, the reorganization of school districts. (EC 35763)

i. Majority Vote Requirement

In order for a reorganization proposal to be successful, a majority of the votes cast must be in favor of the measure. (EC 35764)

j. Opposition to Transfer by Affected School District with 900 or Less ADA

If a governing board of a school district affected by a transfer of territory is opposed to the transfer and has an average daily attendance (ADA) of 900 or less, the territory in which the election is held must include the entire territory of the district(s) opposed to the transfer. Each district so included in an election must bear the additional cost of holding the election in that portion of its territory not otherwise included in the election. In order for the measure to carry, a majority of the votes cast in the school district opposing the transfer and a majority of the votes cast in the entire territory in which the election is held are needed. (EC 35756.5)

k. Order by County Board of Supervisors to Create Reorganization Plan

The county board of supervisors, upon receiving a certificate of election results indicating approval of the reorganization proposal, must make an order to create, change, or terminate the boundaries of school districts. The board of supervisors or the county board of education must cause a copy of the order and a map or plat indicating the boundaries to be filed with the appropriate governmental agencies. (EC 35765)

l. Legal Change of Boundaries

After one year has expired from the date of the order by the board of supervisors, the reorganization is considered to be legally reorganized, and no suit may be made against the legality of the reorganization. (EC 35766)

m. Consolidation of Election to Form New District with New Governing Board Member Election

The county superintendent of schools may consolidate the election for the purpose of electing the governing board of a unified school district with the election for the formation of a new district. The measure regarding the formation of a unified school district and any other proposition to be voted upon must appear on the ballot before the list of candidates for election to the governing board of the proposed unified district. (EC 35767)

5. Process: Conduct of Elections

a. Within 20 days after receiving the notice of the approval of a unification proposal from the State Board of Education (SBE), the county superintendent of schools (CSS) must call an order of election to be conducted at the next available regular election in the territory as determined by the SBE. (EC 35755, 35756)

If a transfer of territory is approved by the county committee, the county committee must notify the CSS, who shall call an election in the territory as determined by the county committee. This election is to be conducted at the next regular election. The CSS must call the election within 35 days following the receipt of the notification. (EC 35710, 35710.51)

If the proposal is for unification, the CSS may consolidate the election for the purpose of electing the governing board of the new unified district. (EC 35767)

In addition, if the reorganization plans call for a proposal for trustee areas, the proposal must be considered part of the reorganization measure; and the wording on the ballot must include such. (EC 35734)

b. The election must be conducted on the next available regular election date in the territory as determined by the SBE or the county committee. (EC 35756)

c. The CSS must prepare the statement of official information and statistics (usually submitted to the Registrar/Recorder/County Clerk 88 days prior to the election date). (EC 35757)

d. The county superintendent of schools is responsible for having the arguments for and against prepared. The arguments must be submitted to the Registrar/Recorder/County Clerk within a time frame as specified by the Registrar/Recorder. (EC 35758 and Elections Code Section 5323)

e. Rebuttal arguments are prepared by the authors of the arguments for and against. The rebuttal arguments must be filed with the Registrar/Recorder not more than 10 days after the final date for filing direct arguments. (Elections Code 5325)

C. Area of Election

1. Background

When a county committee on school district organization approves a transfer of territory pursuant to Education Code Section 35710, the matter goes to an election "in the territory of the district as determined by the county committee. . . ." Similarly, when the SBE approves a reorganization proposal, Education Code Section 35756 requires that the election be held "in the territory as determined by the State Board of Education."

In December 1982, the California Supreme Court in *FULLERTON JOINT UNION HIGH SCHOOL DISTRICT* v. *STATE BOARD OF EDUCATION*, (982) 32 Cal.3d 779, invalidated a SBE decision which denied the vote to the electors in the Fullerton High School District. There, the SBE had approved a plan to create a new unified K–12 school district by removing a portion of the Fullerton High School District and unifying it with the K–8 Yorba Linda Elementary School District. In approving the plan, the SBE limited the election to the area proposed for removal and unification (i.e., to the Yorba Linda territory) and not to the entire Fullerton District. The Supreme Court applied the strict scrutiny rule and concluded that this limitation of the electoral franchise was an unconstitutional denial of equal protection. As a result, the electors in all of the Fullerton School District were allowed to vote because they had a substantial interest in various aspects of the unification proposal.

On the basis of the rationale in *FULLERTON*, the California Department of Education's Legal Office issued an opinion, dated November 6, 1989, to the State Board of Education and Superintendent of Public Instruction. The opinion recommended a three-step process in determining the area of election in school district reorganization proposals. Step #1 is to identify all the affected school districts, which would include districts that lose territory as well as districts that gain territory. Under *FULLERTON*, all the electors in the identified districts have a presumptive right to vote. Step #2 is to determine whether there is a compelling interest on the part of the government to reduce the area of election to an area that is less than the entirety of the affected districts and whether such a reduction is necessary to further the purpose of the proposed reorganization. Step #3 is to determine whether the compelling interest is outweighed by substantial interests of the voters who are denied the vote. The area of election should be expanded to include those voters with substantial interests (as opposed to incidental or no interest). The SBE used this process with success until 1992, when two court decisions caused the law regarding school district reorganization area of election determinations to be extremely unsettled.

2. *PASADENA UNIFIED SCHOOL DISTRICT* v. *STATE BOARD OF EDUCATION*

In February, 1992, the California Second District Court of Appeal invalidated a State Board of Education transfer of territory decision in which the Board limited the area of election exclusively to the residents of the territory proposed to be transferred. *(PASADENA UNIFIED SCHOOL DISTRICT* v. *STATE BOARD OF EDUCATION* (1992) 9 Cal.App.4th 767) Applying the strict scrutiny rule, the court found that the SBE did not separate interested and uninterested voters but rather two groups, each with a substantial although different interest in the election. In that case, the transfer of territory would cause neither a significant financial impact nor a substantial effect upon the curriculum or facilities of either affected districts. However, a few white students would be transferred from the Pasadena School District. In concluding that the reduction in area of election was unconstitutional, the court stated that:

> Nevertheless, the racial impact upon the whole would be significant; immediately upon morale, and in the future when this reorganization would serve as a model and precedent for other neighborhoods hoping to erect a barrier against the acute social problems of its predominantly minority district. Today segregation is more apt to occur in nibbles than gulps." (*PASADENA, supra,* at page 778)

Even though the transfer of white students from the Pasadena District to the San Marino School District would arguably have "no detectable statistical impact on the total racial/ethnic composition of either school district" (*PASADENA, supra,* at pages 774, 775):

> The fact Pasadena Unified School District's [interest] includes a desire to retain a declining white student base is not a reason to disenfranchise its citizenry. (*PASADENA, supra,* at page 778)

The *PASADENA* decision apparently includes morale as an interest to be measured for substantiality and suggests that, even though the racial impact of a proposed transfer of territory is statistically undetectable, the losing district's desire to retain its white pupil population is a substantial interest of the voters.

Although the rationale in *PASADENA* goes beyond that in the *FULLERTON* decision, the *PASADENA* decision, as of the date of publication of this handbook, may not be cited as precedent. Pursuant to Rules of Court, the *PASADENA* appellate court decision was depublished upon grant of review by the Supreme Court. The Supreme Court dismissed the review and remanded the cause to the Court of Appeals as improvidently granted; however, the Supreme Court has not ordered the *PASADENA* decision and opinion to be published. Therefore, it has no precedental effect. The decision was printed in 9 Cal.App.4th 767 solely for purpose of tracking pending review by the Supreme Court.

Although county committees are free to use the principles expressed in the *PASADENA* decision, caution should be exercised because that decision provides no citable legal support.

3. *BOARD OF SUPERVISORS* v. *LAFCO*

In November, 1992, the California Supreme Court decided *BOARD OF SUPERVISORS OF SACRAMENTO COUNTY, ET AL.*, v. *LOCAL AGENCY FORMATION COMMISSION (LAFCO)* (3 Cal. 4th 903). Although this case involves a petition to incorporate a portion of a county rather than reorganize a school district, the decision is significant in that it seems to confuse the importance, if not the validity, of the *FULLERTON* decision. Also discredited is *CITIZENS AGAINST FORCED ANNEXATION* v. *LOCAL AGENCY FORMATION COM.* (1982) 32 Cal.3d 816, a companion case to *FULLERTON*, dealing with municipal annexation elections.

In the LAFCO case, a petition was filed with the Sacramento Local Agency Formation Commission to incorporate the Citrus Heights region of Sacramento County. The county opposed the petition, contending that incorporation would result in a severe adverse financial impact on the county. The proposal contained no racial issues. The legal issue was whether Government Code Section 57103 violates the equal protection clause of the federal and California constitutions.

As relevant to the case, Government Code Section 57103 provides that:

> In any resolution ordering a change of organization or reorganization subject to the confirmation of the voters, the conducting authority shall call an election:
>
> (a) Within the territory of each city or district ordered to be incorporated, formed, disincorporated, dissolved, or consolidated.

In short, this statute requires a reduced area of election without any need to show a compelling state reason for the reduction. The Supreme Court held that this provision is constitutional. The court said that:

> When a law impinges on certain fundamental rights—and the right to vote may be the most fundamental of all . . . a discriminatory law will not be given effect unless its classification bears a close relation to the . . . [promotion] of a compelling state interest, the classification is necessary to achieve the government's goal, and the classification is narrowly drawn to achieve the goal by the least restrictive means possible.

This is called the strict scrutiny test for constitutionality.

> For most legislation, however, a court will apply the rational basis test . . . [T]he classification must bear some fair relationship to a legitimate public purpose.

> We agree that [Government Code] section 57103 touches the right to vote. The mere fact, however, that a state law touches on the right to vote does not necessarily require the application of strict scrutiny . . . [unless the] classification has a real and appreciable impact upon the equality, fairness and integrity of the electoral process . . . [S]ection 57103's impact . . . falls well short of the real and appreciable. . . . (*LAFCO, supra,* at pages 913, 914)

Therefore, in the *LAFCO* case, the court applied the rational basis test on grounds that:

> the residents of the area to be incorporated and the remaining residents of Sacramento County possess, on the face of the law, genuinely different relevant interests. Thus, though the right to vote is perforce implicated whenever the state specifies that certain people may vote and others may not, we conclude that the essence of the case is not the fundamental right to vote, but the state's plenary power to set the conditions under which its political subdivisions are created. For that reason, the impairment of the right to vote is insufficiently implicated to demand the application of strict scrutiny. (*LAFCO, supra,* at page 917)

In addition, the court found that the county residents were sufficiently accommodated with respect to demography and the financial impact was small. (*LAFCO, supra,* at page 923) In applying the rational basis test, the *LAFCO* court cited *LOCKPORT* v. *CITIZENS FOR COMMUNITY ACTION* (1977) 430 U.S.299:

If there "is a genuine difference in the relevant interests of the groups that the state electoral classification has created," then an "enhancement of minority voting strength" is permissible unless it "nonetheless amounts to invidious discrimination in violation of the Equal Protection Clause." (*LAFCO, supra,* at page 916)

The fair relationship to a legitimate public purpose which is required by the rational basis test was found in Government Code Section 56001, which expressed the legislative intent "to encourage orderly growth and development"; that "the logical formation and determination of local agency boundaries is an important factor in promoting orderly development." Thus, "if large relatively disinterested majorities could veto incorporations, . . . the result might well hinder orderly growth and development." To deny the incorporating voters the final say in their own desire for self-government would lessen political participation, not increase it. (LAFCO, *supra*, at pages 923, 924)

The court in *LAFCO* held that the *FULLERTON* case lacks authority as precedent because the reasoning in that case was embodied in a plurality opinion of only three justices. In addition, the racial impact found in *FULLERTON* was not present in the *LAFCO* case. (*LAFCO, supra,* at page 918) Nevertheless, the court in *LAFCO* recognized federal case law reasoning that, even though state government has a wide latitude in creating various types of political subdivisions, that latitude

must necessarily be qualified by a state's fundamental constitutional obligation to avoid racial or other invidious discrimination. (*LAFCO, supra*, at pages 915, 916)

The court in *LAFCO* also found faulty the holding in the *CITIZENS* case, *supra*. The court stated that:

> [W]e also find constitutionally infirm the reliance of *CITIZENS* on the goal of orderly development and provision of municipal services . . . to justify the city voters' exclusion from the election. . . . *CITIZENS* reasoned that the exclusion was justifiable because the city dwellers might veto the annexation, thereby interfering with those goals. But if the city residents have a fundamental right to vote, then the state's putative interest in excluding them from voting because they might veto the annexation is constitutionally impermissible. As correctly stated in *FULLERTON*, "It is, of course, clear that the state cannot claim a compelling interest in excluding voters because of how they may vote." (*LAFCO, supra*, at page 920)

4. Conclusion

The court's reasoning and comments in the *LAFCO* decision bring considerable doubt about the efficacy, if not the validity, of the prior decisions in *FULLERTON* and *CITIZENS*. The *LAFCO* court appears to support the view that, in school district reorganization matters, a determination of the area of election is not subject to strict scrutiny but rather may be tested only on its rational basis, even though the proposed reorganization may create a racial impact that may be of great concern to excluded voters. Under the *LAFCO* decision, the rational basis test would apply to a determination to reduce the voting area in district reorganizations unless the declared public interest underlying that determination has a real and appreciable impact upon the equality, fairness, and integrity of the electoral process, in which case the strict scrutiny test would apply. However, even under the rational basis test, a determination to reduce the area of election would, according to *LAFCO*, be held invalid if the determination constituted an invidious discrimination in violation of the constitutional Equal Protection Clause (e.g., involving a racial impact of some degree).

When basing a reduced election area on a rational state interest, *LAFCO* would suggest that the legislative intent in promoting orderly school district reorganization statewide would be a legitimate public purpose to which a reduced voting area must have a fair relationship. Education Code Section 35500 provides that:

> It is the intent of the Legislature to utilize the organization of districts as they exist on January 1, 1981, and the master plan for school district organization in each county, which was developed and approved under the provisions of this chapter as they existed prior to January 1, 1981, or any approved updated version

of the master plan not inconsistent with other provisions of law, as the basis for future reorganization of districts in each county.

Preserving the concept of master planning, and the current master plan, allows planned, orderly community-based school systems that adequately address transportation, curriculum, faculty, and administration. This concept would include both:

a. Avoiding the risk that residents of the area to be transferred, annexed, or unified might be unable to obtain the benefits of the proposed reorganization if it is unattractive to the residents of the remaining district *and*

b. Avoiding islands of unwanted, remote, or poorly served school communities within large districts.

It is, therefore, recommended that, with considerable caution, the principles in the *LAFCO* decision be followed in determining the area of school district reorganization elections. The principles in the *PASADENA* case may also be followed but are not legally compelled.

This discussion of area of election determination constitutes an update of the legal opinion dated November 6, 1989, from the California Department of Education's Legal Office to the State Board of Education and the Superintendent of Public Instruction.

CHAPTER IX

THE NEW GOVERNING BOARD

This chapter provides information for county office and school district administrators, newly elected school board trustees, and all constituents in the district.

Section A takes the manual user from terminology to the first meeting of the new board. Composition of the membership, eligibility, elections, and terms of office are also covered.

Section B, "Operational Guidelines for Newly Formed Districts," describes:

- Administrative tasks and policy decisions that should be completed between the successful unification election date and the date the new district becomes fully operational
- Guidelines for planning and prioritizing tasks, such as selecting a new superintendent and other staff, securing funding, adopting a budget, developing a curriculum, and initiating the many other programs and services necessary for the successful operation of the district

Section B also includes work sheets that may be reproduced and used by district staff and trustees in initiating and monitoring the major tasks.

IX. THE NEW GOVERNING BOARD

A. New Governing Boards

The term "governing board" means any board of trustees, community college board of trustees, and city, and city and county board of education. (EC 78)

1. Roles and Responsibilities

   Every school district is under the control of a governing board. (EC 35010) The governing board of a school district may initiate and carry on any program, activity, or otherwise may act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established. (EC 35160) The governing board of each district must prescribe and enforce rules not inconsistent with law, or with rules prescribed by the State Board of Education, for its own government. (EC 35010)

2. Composition

   a. Except as otherwise provided, the governing board of a school district must consist of five members elected at large by the qualified voters of the district. The terms of the members must, except as otherwise provided, be for four years and staggered so that as nearly as practical one-half of the members must be elected in each odd-numbered year. (EC 35012)

   b. A unified school district may have a governing board of seven members in event the proposal for unification has specified a governing board of seven members. The members of the board must be elected at large or by trustee areas as designated in the proposal for unification and must serve four-year terms of office. (EC 35012)

   c. Notwithstanding "a" above, and except by local determination as otherwise provided by EC 5018, the governing board of an elementary school district other than a union or joint union elementary school district must consist of three members selected at large from the territory comprising the district. Whenever, in any such elementary school district, the average daily attendance during the preceding fiscal year is 300 or more, the procedures prescribed in EC 5018 must be undertaken. (EC 35012)

   d. Whenever the boundaries of a county high school district are coterminous with the boundaries of a county, the board must consist of one member from each supervisorial district in the county elected at large from the district. (EC 5027)

   e. For community college districts which were divided into five wards on or before September 7, 1955, one member of the board must be elected from each ward by the registered voters of the ward. On or before January 1 of a fiscal

year, the governing board of the district may rearrange the boundaries of the wards to provide for representation in accordance with population and geographic factors or may abolish the wards. (EC 5028)

f. There may be one or more nonvoting members on governing boards in school districts maintaining one or more high schools. Such pupil members may be less than 18 years of age and must be chosen by the pupils enrolled in the high school or high schools of the district in accordance with procedures prescribed by the governing board. The term of a pupil member must be one year commencing on July 1 of each year. (EC 35012)

3. Eligibility of Board Members

Any person, regardless of sex, who is eighteen years of age or older, a citizen of the state, a resident of the school district, and a registered voter, and who is not disqualified by the Constitution or laws of the state from holding a civil office, is eligible to be elected or appointed a member of a governing board of a school district without further qualifications. (EC 35107a)

An employee of a school district may not be sworn into office as an elected or appointed member of that school district governing board unless and until he or she resigns as an employee. If the employee does not resign, the employment will automatically terminate upon being sworn into office. (EC 35107b)

4. Election of a New Governing Board

The plans and recommendations for a school district organization may include a provision that will provide for the election of the first governing board of a newly unified school district to be held at the same time as the election on the reorganization proposal. If the provision is included, the plans shall also specify the method to be utilized to stagger board members' terms. If such a provision is not provided, the election of the first governing board will take place on the first regular election following the passage of the reorganization proposal. (EC 35737, 35767)

The question of formation of a unified school district and any other proposition to be voted upon must appear on the ballot before the list of candidates for election to the governing board of the proposed unified district. (EC 35767)

5. Terms of Office

The majority of the members of the first elected board of any newly formed school district who received the highest number of votes must serve until the first Friday in December of the second succeeding odd-numbered year. The other members' terms must expire on the first Friday in December of the first succeeding odd-numbered year. (EC 35105, 5017)

For those districts formed in even-numbered years where in connection with the formation of which the first governing board was elected in such even-numbered year, all of the members of the first elected governing board must serve until the first Friday in December of the second succeeding odd-numbered year. Their successors must be elected at an election conducted on the first Tuesday after the first Monday in November of such second succeeding odd-numbered year. The majority of such successors receiving the highest number of votes must serve until the first Friday in December of the second odd-numbered year. The other members' terms must expire on the first Friday in December of the first odd-numbered year. (EC 5003)

The governing board of a unified school district formed in an even-numbered year may adopt a resolution which will provide that the majority of the members of the governing board who received the highest number of votes in the first election of governing board members for the district must serve until the first Friday in December of the third odd-numbered year succeeding that first election, and the other members' terms must expire on the first Friday in December of the second odd-numbered year succeeding that first election. The resolution must be adopted on or before March 15 of the second odd-numbered year succeeding the first election of the governing board. (EC 5003(b))

6. No Election in Component Districts Pending Reorganization

   Whenever a school district has been wholly absorbed into one or more other districts and continues in existence as a district until the reorganization in which it has been included is effective for all purposes and a governing board member election is otherwise required to be held prior to such effective date of the reorganization, no such election may be held. Instead, the county superintendent of schools must appoint successors to the members whose terms expire on the first Friday in December following the date upon which the election would otherwise have been held. Such appointees must hold office until the reorganization becomes effective. (EC 5002)

7. Concurrent Service of Board Members

   When a member of the governing board of a school district which is being reorganized and which will cease to exist takes office as a member of the initial or interim governing board of a newly formed district, he/she must cease to be a member of the governing board of the district being reorganized. (EC 35106) It may be possible, however, for the board of the district to obtain a waiver from the State Board of Education allowing a member(s) to serve on both boards at the same time. Such waiver request must be made prior to the election because it is illegal to serve on two boards at the same time.

8. First Meeting of the New Board to Be Called by the County Superintendent of Schools

   Within 20 days after the appointment or election of the interim or initial governing board of any newly formed district, the county superintendent of schools must call the first meeting of the board. The meeting must be properly noticed in accordance with the Brown Act (Government Code 54950 et seq.), and, in addition, each member of the board must be given at least 10 days' notice of such meeting by registered mail. (EC 35102)

   At the first meeting, board members are to be sworn in and must elect officers. In accordance with Education Code 35000, the board must, at the first meeting or as soon as practicable thereafter, name the district. Other actions should include setting the date, time, and place of regular meetings. Other items may be placed on the agenda as needed, including a closed session to discuss personnel matters. See Appendix K, "Sample Organizational Meeting Agenda."

B. Operational Guidelines for Newly Formed Districts

1. The Interim Operational Period

   The period of "Interim Operation" includes the time span between the date of the successful unification election and July 1, the date on which the new district becomes fully operational for all purposes. It is during this interim operational period that the new district is organized administratively, and significant policy and planning decisions must be made.

   a. Board Member Orientation

      Even though every member of the new board may have served previously on a school board, all board members, as representatives of the new organization, should participate in a series of seminars designed to orient the board to the specific responsibilities of a board member of a unified school district and the procedures unique to such a district. These seminars might be conducted by the local school boards association, the county office of education, or the California Department of Education.

   b. Determination of Philosophy and Goals

      The county office of education should provide the new board with an administrative advisor to assist the board in an advisory capacity pending the selection of a superintendent. This advisor should assist the board in determining and developing a statement of educational philosophy and long-range educational goals for the district.

   c. Selection of the Superintendent

      The board should seek assistance in defining the qualifications the board desires for the superintendent of the district and request assistance in the screening and selection process of locating candidates for the position. This process should take priority over all but legally required items on the board's agenda.

   d. Development of Policy and Procedures

      In the development of policies and procedures, the process of which should begin at the first meeting of the new board, first priority should be given to the procurement of the superintendent. If there is to be a span of time between the board's election and the selection of the superintendent, a statement of "Personnel Philosophy" should be developed.

   e. Administrative Organization

      The development of an organizational framework and the assignment of personnel to positions within that framework are priority tasks of the

superintendent and the board. Anxieties of personnel will continue until staff members see their place within the total system.

f. Communications

For a period of time, the people who voted to create the unified district will wonder about the effectiveness of their creation. Communicating with this public, as well as with the staff, is a shared and important responsibility of all. An effective communications program, including internal communications as well as public information, must be developed and implemented.

g. Grade Level Organization and Educational Program Extension

The varying grade level organizations of the component districts should be standardized as early as possible. In addition, the most desirable facets of each component district's educational program must be identified and measures taken to extend those programs to all schools of the new district wherever applicable. The number of such programs that can be implemented in the first year of operation must be determined, and, basic to such decisions, an inventory should be developed of all specialized programs along with a thorough analysis of the costs of each program.

h. Master Planning

A districtwide master plan should be developed to fulfill multiple planning needs of the new district. The master plan should include population and assessed value projections, site locations, space adequacy surveys of existing buildings, and projections of needed facilities.

i. Fiscal Planning

Projected income should be balanced with the priority established on the costs of each phase of the educational program.

2. Priorities by Operational Area

After the school board is elected, its most urgent task is the selection of a superintendent who can work with the board and the community in consolidating the most desirable aspects of each of the component districts to provide the children of the new district with the finest possible educational program.

3. The Tempo of Operations

Both public and staff approval of the new district in the early period of operation will set the tempo for subsequent acceptance. In the effort to provide the best attainable organization and educational program, priority should be placed on those decisions which yield high visibility to the people interested in the new unified district—especially parents, staff, and potential critics.

High priority should be given to establishing communication channels, both for communicating the decisions and actions of the board and administration and for receiving feedback on acceptance and progress. Priority for as much personal contact as possible between the superintendent and the community, and especially both certificated and classified staff, is highly recommended. Through this contact, the superintendent can learn firsthand the expectations of the community.

4. The School Board

As representatives of the public, members of the school board must recognize that the board functions at the policy and evaluative level in its role as the governing body of the school district. The executive and administrative operation of the district is a delegated responsibility.

Although seldom mentioned, there is an obvious need for the board to select from among its members those individuals most qualified to serve as officers. The orderly conduct of board meetings in a fair and impartial manner is a special technique. Long meetings should be avoided.

a. Orientation to Responsibility

The wide variety of backgrounds usually found in board members in a new district necessitates acquainting each individual with the board member's role relative to:

1) Development of a district philosophy and goals

2) Policy level of operation

3) Differences in educational programming and costs for elementary and secondary levels

4) Working relationships between the board and the superintendent

5) Financial potential, budget development, and budget implementation

b. District Educational Philosophy

As a basis for establishing the direction of the district, the board should immediately set about defining its educational philosophy and goals, which may then be used in a descriptive document to advertise for a superintendent.

c. Selection of the Superintendent

The board should seek assistance in developing procedures for the selection of a superintendent and should develop rules or guidelines governing operations. These provisions should be available at the earliest possible date. (EC 35010(b))

d. Development of Policies

This is a most crucial stage in the development of a new district. The board, with the assistance of the superintendent, should develop rules or guidelines governing district operations. These policies should be available at the earliest possible date.

e. Working Relationship

For the greatest effectiveness and efficiency, the board should exercise care in the selection of its officers. Beyond this responsibility is the need for each board member to work effectively within the group and to recognize that individual trustees function as board members only during board meetings.

f. Implicit Responsibilities

The board represents all children in the district, and its decisions should be based on this premise. Whether board members are voted into office by all citizens or by the citizens from individual trustee areas, the board's actions should reflect decisions made in the best interest of all the students. Implicit in all actions should be a rejection of decisions based on self-interest or the influence exerted by pressure groups. Decisions should be based on a sincere desire to provide the best attainable educational program. The board stands fully responsible and accountable to the public for the success of the district.

5. The Administration

The administration of the district is the responsibility of the professional educators to whom the board has delegated responsibility to implement its decisions. The superintendent is directly responsible to the board for all the operational aspects of the district. In implementing this responsibility, the superintendent assigns priorities to his/her actions.

a. Internal Communication and Community Relations

The primary responsibilities of the superintendent are to develop channels of communications with staff, both certificated and classified, and to communicate with the district's public and receive feedback of the community's perception of the district's progress. These are continuing responsibilities, which begin the first day of the superintendent's employment with the district.

b. Organization of Administrative Structure

The operational aspects of a unified district are enormous and complex. The superintendent requires competent assistance in developing the procedural details of the operations of the district. Therefore, the superintendent should assess the capabilities and desires of the key people from the component districts, determine the operational areas in need of the greatest assistance, and

correlate these factors to recommend and establish an administrative structure. The new structure should be accompanied by job descriptions, and the staff assigned should be clear about the responsibility and authority of their positions.

The unified district is responsible for the total educational program of pupils from kindergarten through grade twelve. To provide a balance in the central office staff, both the elementary and secondary levels should be represented in the administrative hierarchy.

The superintendent is responsible for evoking the concept of one district, for welding together a team composed of staff of all components, and for developing a communication network between all parts of the organization. The superintendent must work effectively with representatives of all employee groups to achieve these goals.

c. Operational Procedures

Operational procedures should be developed to serve as the operational interpretation of board policy and as a guide to all personnel. Procedures foster a greater consistency in administrative decisions and should be developed as close to the operational level as is feasible.

d. Budget Development

The superintendent is the chief fiscal officer of the district. His/her administrative effectiveness is directly related to the financial ability of the district to support proposed programs. The superintendent, while delegating responsibility for budget preparation, should not delegate responsibility for the consequences of a poorly planned financial program. The superintendent should give top priority to budget development.

6. Instructional Services and Programs

This division may be assigned to an assistant or deputy superintendent. Priorities include decisions determining the district's educational program and services, such as:

a. Analysis of Existing Programs and Services

In order to know what programs and services the district should continue to offer, it is first necessary to evaluate those programs in terms of their effectiveness and to attach a price tag to them. Decisions about future programs may be based on an analysis of the effectiveness of the program and the financial ability of the district to maintain the program. The ratio of pupils to teachers must be carefully analyzed in terms of priorities and measured against

the importance assigned to a lower class load versus increased program offerings.

b. Unification/Consolidation of Educational Programs and Services

Unification offers the opportunity to provide equitable educational opportunities to all pupils of the district. This implies that the best programs and services will be offered to all. Such an objective may be long-range and require the extension of those programs over a period of time. Time schedules for implementation should be established with a carefully constructed cost analysis.

c. Course of Study and Curriculum Guides: Articulation

The articulation of the curriculum will be dependent on the materials and inservice training provided to staff members. Universally, this is a long-term process. Teacher involvement is necessary for its success. Horizontal articulation can be brought about only through face-to-face meetings at grade level or within subject areas. Definite plans for achievement of this goal should be established and a calendar for completion developed.

d. Instructional Supplies and Materials

This issue is a critical priority. The materials and supplies provided for teachers significantly influence their satisfaction and effectiveness in teaching. Teachers should be represented on the committee which determines the standard lists that are utilized to implement the prescribed course of study.

In selecting state-adopted instructional materials, district governing boards are required to provide for substantial teacher involvement and promote the involvement of parents and other members of the community. (EC 60262)

e. Report Cards, Schedules, Calendar

Procedures for establishing operating practices regarding development of report cards and schedules should be determined. Changes in reporting practices to parents are particularly difficult to institute in a universally acceptable manner but are mandated to a degree if unity in practice is to be achieved.

f. Library Services

Where libraries existed, staff and parents' pride in those libraries is considerable. These services should not be curtailed without careful consideration. All too often, the introduction and expansion of library services were the result of many people's efforts over a long period of time.

7. Business Operations

The business services division carries the responsibility for a multifaceted portion of the operational planning of the district. Basic responsibility is assigned for budgetary preparation and control, including purchases, payments, audits, and reports. In addition, many districts assign the business division responsibility for maintenance, operations, transportation, cafeteria, furniture and equipment, and the building program. Recommended priorities are:

a. Budgetary Development

The development of the budget for a new unified district is a complex operation dependent on many variables for which there is little or no information available in the new district. Every facet of the district's philosophy, goal, and operation is involved. Procedures might be as follows:

1) Analysis of the component districts' existing educational programs, services (teacher aides, transportation, cafeteria, health, etc.), and salary schedules in terms of the current cost of each and the projected costs to the unified school district if continued

2) Determination of the districts' local financial resources, alternative taxing programs, and other sources of income

3) Development of a relationship between the educational offerings, services, and dollar cost in order to determine which of the desirable programs and services will be offered and correlate this information with the amount of revenues available

4) Determination of school building needs and the financial potential for meeting those needs

b. Control of Purchasing, Paying, Recording, Reporting, Inventorying, Warehousing, Distributing

1) *Purchasing.* Purchases should be made on the basis of standardized lists for supplies, materials, furniture, and equipment. Staff should be involved in the development of these lists. A system of encumbrances is necessary to provide adequate auditing of expenditures.

2) *Paying.* All forms should be standardized, and sound operating procedures and schedules should be established.

3) *Recording; auditing.* Data processing procedures are recommended. Increased efficiency and ease in completing required reports are two priority by-products.

4) *Reporting.* The district's financial status should be reported monthly, in detail, to the board and community. The availability of reports reflects the confidence of the administration and, in turn, stimulates acceptance.

5) *Inventorying.* Inventories should be developed for all furniture and equipment. These inventories provide the basis for insurance claims, for the development of replacement schedules, and for adequate control.

6) *Warehousing.* Warehousing on a centralized basis is recommended. There is a need to establish inventory control and security.

7) *Distributing.* Distribution of supplies and materials on a regular and consistent schedule is essential for morale and teaching effectiveness. Planned needs of teachers must be met on schedule. There should be provision for emergency delivery of needed supplies and materials as warranted.

c. Cafeteria

The board and administration should decide whether to establish or continue cafeteria operations and should define the kind of program desired and the levels to which it will be offered. An early decision should be made about staffing, including both the person delegated to be in charge and the functional relationships between that person and administrative and cafeteria staff. Costs of the program, dependent on quality of service and participation by pupils, should be determined. The existing programs should be consolidated. (EC 39870–39902)

d. Transportation

Existing transportation policies, procedures, practices, and costs should be analyzed. From this analysis a determination is made of how extensive a service is to be offered within the economic capability of the district. Affecting this decision, and affected by this decision. will be attendance areas, school opening and closing schedules, study trips and extracurricular excursions, and all other facets of the district's operation, including public acceptance of any change in service. If bus transportation is to be offered, routes, schedules, and possible fees must be adopted; and parents must be notified of those decisions before school opens. (EC 39200–39841)

e. Maintenance and Operation

In a consolidation of many school districts, the new district is faced with the necessity of standardizing several maintenance and operation procedures, salary schedules, job classifications, and work programs.

Quality control should be established and costs detailed so that decisions can be made as to the most economical method of providing required services. Many districts have found that, with the centralization of maintenance operations, there is a time lag between notification of need for maintenance and its performance. Some districts have authorized minor maintenance by custodians.

f. Furniture and Equipment

Standard lists of furniture and equipment are needed in the new district. To establish quality control as well as acceptability, staff members should help develop the lists. Inventories of all furniture and equipment are critical and, if not available at the time of unification, should be developed in the first year. Accompanying the inventory should be an appraisal of value, life of use, and a replacement schedule.

g. Insurance

Experience has shown that the consolidation of insurance programs following unification has resulted in a substantial reduction in premiums. This is a complex operation, and few school administrators are trained to handle this program. Recommended is the establishment of an Insurance Agents Council (made up of the agents who handled the insurance of component districts) to jointly write specifications for the new district's insurance program, including an "omissions policy" which provides greater protection to the district.

h. Redistribution of Furniture and Equipment

One of the objectives of unification is to provide for equality between schools. In the process of equalization of furniture and equipment, any item donated by the PTA or other organization should be exempt from this equalization procedure. Boards should be careful not to take from one component district and give to another; instead, they should provide for differences between schools by purchasing new equipment. People are extremely sensitive about losing anything because of unification.

8. Personnel

It is essential that the employees of the district recognize their rights, privileges, and responsibilities. They must know the relationship between the people who operate the district and the people who provide the educational leadership for programs and services; employees must understand their own position and their relationship to others. This end may be partially accomplished through the development of personnel policies.

a. Personnel Policies

District personnel should be involved in the development of policies which concern their status within the district. Certificated and classified employee policies should be developed as soon as possible after unification and should include, in addition to statements about representation, information about leaves, fringe benefits, assignments, evaluations, and promotions. Detailed job descriptions should be developed for all positions and should include descriptions of the personnel competencies required.

b. Salary Classification

Concurrent with the development of personnel policies and a study of salary schedules should be an analysis of the salary placement of each staff member. This analysis will require the establishment of a standard form for collection of personnel information and the collection of personnel files from component districts. Past irregularities in placement procedures have been common in small districts, and a careful analysis by a skilled technician is essential.

c. Employment, Classification, Assignment, and Evaluation

As a basic rule, "A governing board . . . shall employ for positions requiring certification qualifications only persons who possess the qualifications therefor prescribed by law." (EC 44830) All other positions and classifications are in the classified service. (EC 45103)

Existing employees should be assigned to the position for which they are best qualified, and new employees should be sought for vacancies created by growth, transfer, or resignation. Assignment should be on the basis of the district's needs, and evaluation should be accomplished on a regularly scheduled basis by a method determined in cooperation with the employee group.

Assignment of classified personnel may be accomplished effectively by the following procedure: Write a job description for each position; establish the skills, education, and experience qualifications for assignment; and allocate financial remuneration consistent with standard practice. When this process has been accomplished, reassign incumbent personnel according to specifications and abilities.

d. Employee Organizations and Representation

The Public Employment Relations Board (PERB) should be contacted as soon as possible to determine the new district's obligations, if any, to recognize unions that represented employees of the former school districts. PERB is established by law as the independent, neutral party for employer-employee

relations and will specify whether there are to be elections to determine representation rights and whether prior contracts may apply.

There are also numerous professional organizations for classified and certificated employees. School district employees rely on those organizations for staff development programs and to open lines of communication among peers. To the extent possible, it is advisable for districts to support employee participation in professional organizations.

9. Pupil Personnel Services

A first step in the determination of pupil personnel services to be offered in the unified district is an analysis of the number, type, and cost of services being offered in the component districts. Decisions on the scope of future services will be based on the cost of equalizing existing programs and the projected costs of adding other desirable services.

Typical of services offered in newly unified districts is the provision of relatively adequate nursing services for each high school, limited nursing services to elementary schools, and extension of counseling services to the junior high school level (aimed at articulation with the high school program). There may be a decrease in some pupil personnel services for those component districts which formerly enjoyed the extensive services of the county office. Psychological services and all programs of special education, including speech therapy, are generally available to all districts after unification, and the number and availability of these programs may increase as the enrollment of the unified district grows.

10. Facilities

Space adequacy poses one of the greatest problems newly unified districts face. The most frequent limitation is in central administration quarters. Invariably, district administrative personnel are located in two to four locations, usually in the administrative facilities of the component district. This physical distance in working relationships and the resultant lack of immediate and frequent contact have a tendency to limit communication to a detrimental degree.

In growing districts, space adequacy studies should be completed immediately. District master planning, projections of future building needs, evaluation of existing structures, and dollar value of potential needs should be determined. Articulation of building needs with proposed curriculum offerings is difficult to assess in the first year of unification because of uncertainty of direction in instructional areas. Elections to finance building needs should be carefully weighed and scheduled.

11. Community Relations

Community relations (sometimes called public relations) are the responsibility of every staff member. It is especially important, however, for the superintendent to be directly and extensively concerned with these relationships. He/she should establish working relationships with the press, meet civic officials and influential citizens and parent leaders, establish procedures for dissemination of information, and be available to appear before civic, fraternal, service, and parent organizations.

Superintendents must recognize the importance of staff influence on the community regarding the image staff members are creating. Staff should develop an awareness of community expectations concerning the new district and education in general, and they should be able to relate the district's programs to the district's mission, goals, and objectives in terms of quality education.

12. Suggested Major Tasks to Be Initiated and Completed - Worksheet

a. IMMEDIATE TASKS	BEGIN TASK	TARGET COMPLETION DATE	ACTUAL COMPLETION DATE	COUNTY OFFICE STAFF	DISTRICT	COMMENTS
1. Secure Interim funding a. Loan from County Superintendent b. Loan from State c. Determine amounts d. Establish fund in County Treasury e. Loan from District						
2. Adopt interim budget						
3. Appoint authorized agent a. Payroll b. Commercial warrants c. Legal documents						
4. Establish legal address a. District administration						
5. Establish calendar for Board meetings a. Dates b. Time c. Location						
6. Adopt selection criteria and procedure to employ a district superintendent						
7. Select location and establish district administrative office						
8. Secure Interim Insurance coverage a. Worker's Compensation b. Public liability c. Errors and omissions						
9. Determine need and authorize secretarial services for district administrative office						
10. Authorize purchases of supplies and materials for new district a. Letterhead stationery b. Requisition/purchase order forms c. Other forms d. Office supplies and equipment						

Suggested Major Tasks to Be Initiated And Completed - Worksheet

a. IMMEDIATE TASKS	BEGIN TASK	TARGET COMPLETION DATE	ACTUAL COMPLETION DATE	COUNTY OFFICE STAFF	DISTRICT	COMMENTS
11. File application for a. Federal IRS numbers b. Year-Round notice to state (if applicable)						
12. Conduct survey of permanent certificated employees presently employed by the districts concerned to determine each employee's choice to either remain with current employer or become an employee of the newly formed Unified District						
b. OTHER MAJOR TASKS TO BE INITIATED						
1. Adopt interim board policies a. District administration b. Personnel (1) certified (2) classified c. Budget and finance						
2. Budget preparation and adoption a. Set budget calendar b. Determine base revenue limit and ADA figures (1) adopted salary schedules (2) Federal projects; state and local income c. Prepare projected expenditures based on: (1) adopted salary (2) number of employees (3) approved fringe benefits (4) operational and maintenance needs (5) capital outlay (6) revenue d. Adopt preliminary budget e. Hold public hearing and adopt final budget						
3. Adopt salary schedule a. Certificated b. Classified c. Substitute-certificated/classified						

Suggested Major Tasks to Be Initiated and Completed - Worksheet

b. OTHER MAJOR TASKS TO BE INITIATED	BEGIN TASK	TARGET COMPLETION DATE	ACTUAL COMPLETION DATE	COUNTY OFFICE STAFF	DISTRICT	COMMENTS
4. Division of property						
a. All funds						
b. Property, real and personal (transfer of title)						
c. Obligations						
d. Distribution ratio						
5. Plan and initiate the following programs and/or services for New Districts:						
a. Transportation programs						
b. Food service/cafeteria program						
c. Maintenance & operation program						
d. Deferred maintenance program						
e. Budgeting/accounting/bookkeeping system						
f. Purchasing/warehouse system						
g. Attendance accounting system						
h. Insurance program						
i. Public information program						
6. Develop curriculum programs						
a. K-12						
(1) elementary						
(2) high school						
(3) continuation						
(4) adult education						
b. K-12 co-educational athletic program						
c. K-12 music program						
d. K-12 library						
e. Special Education - master plan						
f. Graduation procedures						
g. Proficiency testing						
h. Nursing, health and psychological programs						
i. Vocational education - ROP						
j. Promotional policies						
k. Recreation programs						

13. Curriculum and Administrative Projects to be Organized upon Formation of a New School District

a. Curriculum Projects

Articulation program between elementary and high school
Cumulative student records
Grading system
Graduation procedures
Honors society
In-service program for employees
K–12 curriculum
Elementary school
High school
Continuation school
Adult school
K–12 coeducational athletics program
K–12 music program
Libraries
Nursing, health, and psychological program
Proficiency testing system
Promotion policy (see policies)
Recreation program (after school)
Reporting system (cards, teacher-parent meetings)
School bulletins
Summer school
Various state and federal programs
Vocational education

b. Administrative Projects

Adult school
Attendance accounting system established
Budgeting system established
Certificated employees policy handbook
Classified employees policy handbook
Custodial schedules
Data processing system
Division of property
Energy conservation program

Evaluation procedure (personnel)
In-service program for administrators
Insurance program
Lunch program
Maintenance program for district
Necessary small school
New employee screening procedure
Notification of boundary and name change
Personnel procedures
Policy development for district (ongoing)
Printing and duplicating system
Public information system
Purchasing system established
Receiving and distributing system (supplies)
Review bond redemption for interest payments
Salary schedule (certificated and classified)
Standard supply list for instruction and maintenance
Start-up funds
Transportation system
Trustee powers versus administrator duties
Warehousing system
Welfare and attendance system

14. Education Code Sections and References Regarding Newly Formed Districts

    a. Governing Board

        1) Education Code Section 35102

            a) County superintendent calls first meeting within 20 days of election.

            b) County superintendent gives ten days' notice before meeting.

            c) Board appoints officers (EC 35143); sets meetings and frequency.

        2) Education Code Section 35105

            a) Term: The majority serves until the first Friday in December of the second succeeding odd-numbered year (between two and four years). Other members' terms expire on the first Friday in December of the first succeeding odd-numbered year (between one and three years).

            b) Modification of usual election scheme for certain new unified school districts (EC 5003)

3) Education Code Section 35106

If a board member in a district *which will cease* to exist takes office in a newly formed school district, he/she ceases to be a member of the governing board of the district being reorganized. The county board of education appoints a successor. This limitation may be waived by the State Board of Education provided the waiver is approved prior to the election and resulting removal from office. (EC 33050)

b. Revenue Limit (Education Code Section 35735)

c. Disposition of Real Property, Funds, and Obligations; Purchase of Land (Education Code Sections 35560 and 35736): funds, cash on hand, monies due but uncollected on effective date for all purposes, and apportionments based on ADA earned in previous year

d. Disputes Between Districts; Arbitration (Education Code Section 35565): Each district appoints a member of an arbitration board plus county superintendent's appointee(s) to make an odd number of members; expenses are divided.

e. Division of Bonded Indebtedness (Education Code Section 35577): ratio of assessed valuation

f. Superintendent (Education Code Sections 35026-35035): Board may elect and reelect as district superintendent or deputy, associate, or assistant superintendent a person employed as district superintendent of one of the elementary districts at time of formation. (Provisions not limited to reorganized districts.)

1) Term (Education Code Section 35034): Board may elect superintendent for no more than four years who shall be executive officer and secretary of the board.

2) Powers (Education Code Section 35035): Superintendent is responsible for budget; assigns and transfers teachers, certifies credentialed teachers, and enters into contracts for district; also shows financial condition of district twice each year. (EC 42130)

g. Clerk (Education Code Section 35036)

1) Duties (Education Code Section 35250(a) and (d))

Certifies and attests board actions, annual report to county superintendent. Maintains required records.

h. Housing (Education Code Section 46304)

Unsuitable quarters: State Superintendent determines contract with another district.

i. Interdistrict Agreements (Education Code Section 46616)

j. Public Law 874—25 percent reduction (can claim ADA and pay August 31 after fiscal year)

k. Funds (Education Code Section 42623, County (41360, State))

l. Transfer of Territory (Education Code Section 35545)

No territory shall be removed from newly formed school district for five years without governing board approval.

m. District Name (Education Code Section 35000)

1) Board shall name the district at the first meeting or as soon as possible. Name shall include _____ Unified School District.

CHAPTER X

OTHER FUNCTIONS OF THE COUNTY COMMITTEE

County committees on school district organization have numerous responsibilities in establishing, revising, or abolishing areas represented by the members of school district governing boards. Those requirements are unique to county committees and constitute a major portion of their workload. This chapter is particularly important for committee members.

X. OTHER FUNCTIONS OF THE COUNTY COMMITTEE

A. Introduction

A county committee on school district organization serves as central initiator, coordinator, facilitator, and arbitrator for the reorganization of school districts. Most of its activities deal with the reorganization of school district boundaries. Nevertheless, the county committee has other responsibilities empowered by the Education Code relating to trustee areas, membership, and methods of electing governing boards. This chapter identifies and addresses those other functions.

Section B of this chapter is organized as a Quick Reference Guide similar to that found in Chapter V. It provides a succinct reference in the form of a one-page chart and accompanying flowchart, which sequence the necessary steps to be followed in each of these six processes:

- Creation/Abolishment of Trustee Areas
- Increase/Decrease in Numbers of Governing Board Members
- Rearrangement of Trustee Areas
- Petition Process—After a County Committee Takes Action to Approve a Rearrangement of Trustee Areas
- Rearrangement of Trustee Areas Based on Federal Decennial Census
- Alternate Methods of Electing Governing Board Members

Section C, "Legal Provisions: Supporting Actions," provides more detailed information about the steps identified in Section B and addresses several topics related to trustees and trustee areas. It also includes matters pertaining to county board of education trustees and trustee areas.

B. Process: Quick Reference Chart X-1

CREATION/ABOLISHMENT OF TRUSTEE AREAS
(Refer to Flowchart X-1.)

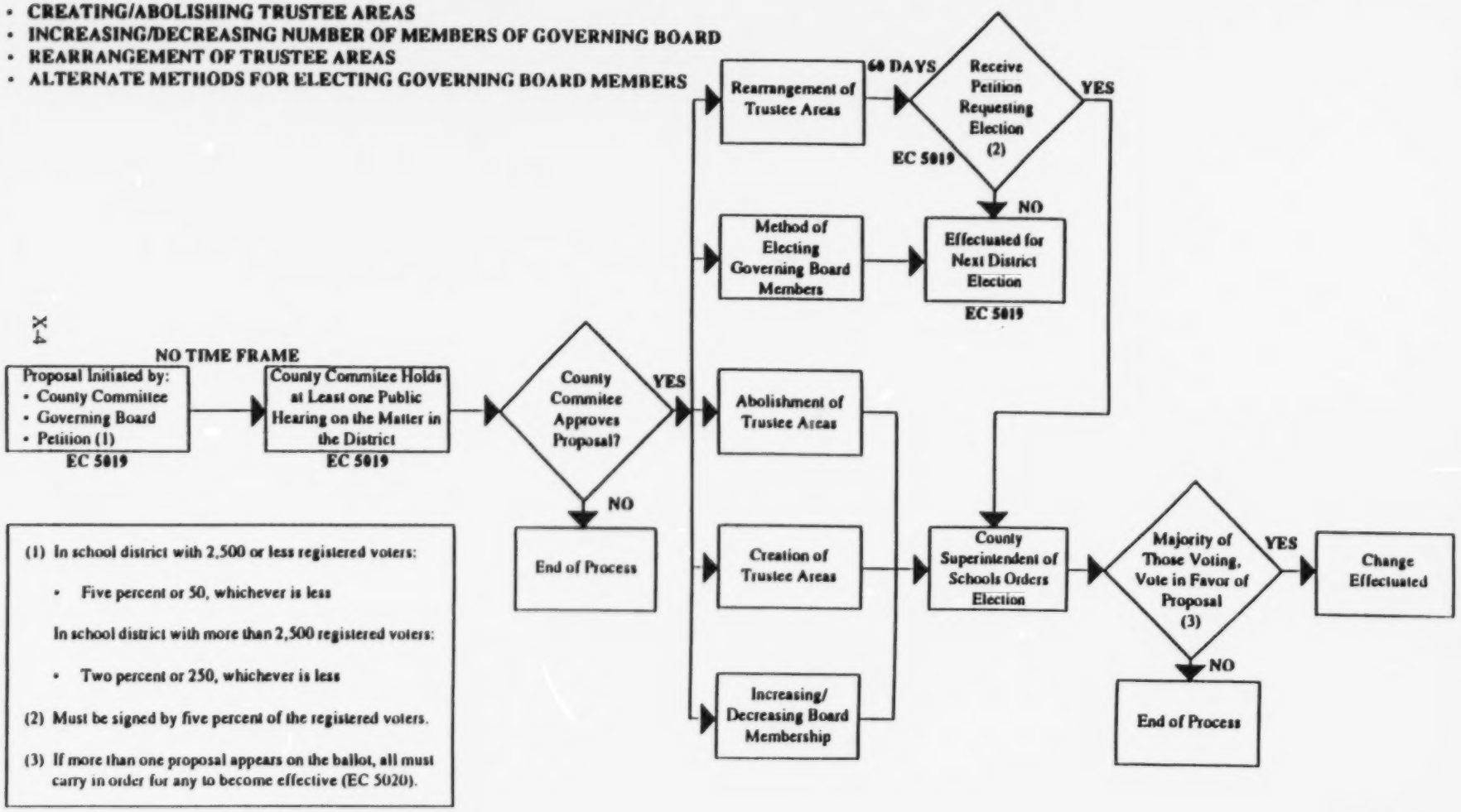
1. Receive request/initiate action to *create/abolish trustee areas*. (EC 5019)
2. County committee calls and conducts at least one public hearing in the district on the matter. (EC 5019)
3. At the conclusion of the hearing, the county committee approves/disapproves the proposal, which shall constitute an order of election. (EC 5019)
4. Proposal is placed on the ballot not later than the next succeeding election for members of the governing board. (EC 5019)
5. If a majority of those voting approve the establishment/abolishment of trustee areas, any affected board member serves out his/her term, and succeeding board members are elected according to the selected method. (5021)

Note: Whenever trustee areas are established in a district, provision must be made for one of the alternative methods of electing governing board members. (EC 5030)

FLOWCHART X-1

OTHER FUNCTIONS OF THE COUNTY COMMITTEE

- CREATING/ABOLISHING TRUSTEE AREAS
- INCREASING/DECREASING NUMBER OF MEMBERS OF GOVERNING BOARD
- REARRANGEMENT OF TRUSTEE AREAS
- ALTERNATE METHODS FOR ELECTING GOVERNING BOARD MEMBERS



(1) In school district with 2,500 or less registered voters:

- Five percent or 50, whichever is less

In school district with more than 2,500 registered voters:

- Two percent or 250, whichever is less

(2) Must be signed by five percent of the registered voters.

(3) If more than one proposal appears on the ballot, all must carry in order for any to become effective (EC 5020).

B. Process: Quick Reference Chart X-2

INCREASE/DECREASE IN
NUMBERS OF GOVERNING BOARD MEMBERS
(Refer to Flowchart X-1.)

1. Receive request/initiate action to increase/decrease the number of members of the governing board. (EC 5019)
2. County committee calls and conducts at least one public hearing in the district on the matter. (EC 5019)
3. At the conclusion of the hearing, the county committee approves/disapproves the proposal, which shall constitute an order of election. (EC 5019)
4. Proposal is placed on the ballot not later than the next succeeding election for members of the governing board. (EC 5019)
5. If a majority of those voting approve the proposal to increase the number of members of the governing board, the two additional members of the board must be appointed by the governing board of the district. (EC 5022)

B. Process: Quick Reference Chart X-3

REARRANGEMENT OF TRUSTEE AREAS
(Refer to Flowchart X-1.)

1. Receive request/initiate action to rearrange trustee areas. (EC 5019)
2. County committee calls and conducts at least one public hearing in the district on the matter. (EC 5019)
3. At the conclusion of the hearing, the county committee approves/disapproves the proposal. (EC 5019)
4. The rearrangement of the trustee areas must be put into effect for the next school district election occurring at least 120 days after its approval. (EC 5019)

Note: The rearrangement of the trustee areas may be petitioned and would then require the proposal to be put to vote. (See Quick Reference Chart X-4.)

B. Process: Quick Reference Chart X-4

PETITION PROCESS SUBSEQUENT TO A COUNTY COMMITTEE'S APPROVAL FOR THE REARRANGEMENT OF TRUSTEE AREAS

1. If the county committee approves the rearrangement of trustee areas and a subsequent petition is received, signed by at least 5 percent of the registered voters of the district, requesting an election on the proposed rearrangement of trustee area boundaries, the county committee must put the proposition to vote. The deadline for receiving the petition is 60 days after the county committee approves the proposal. (EC 5019)

2. The county committee must place the proposal on the ballot not later than the next succeeding election for the members of the governing board, provided that there is sufficient time to place the issue on the ballot (120 days prior to the election date). (EC 5020)

3. If a majority of those voting approve the rearrangement of trustee areas, any affected board member serves out his/her term, and succeeding board members are elected according to the selected method and in accordance with the new boundaries. (EC 5021)

Note: Whenever trustee areas are rearranged in a district, provision must be made for one of the alternative methods of electing governing board members. (EC 5030)

B. Process: Quick Reference Chart X-5

REARRANGEMENT OF TRUSTEE AREAS FOLLOWING FEDERAL DECENNIAL CENSUS
(Refer to Flowchart X-2.)

1. School and community college districts in which trustee areas have been established and in which each trustee is elected by the residents of the area he/she represents must rearrange the trustee area boundaries before March 1 of the year following the year in which the results of each decennial census are released. (EC 5019.5(1))

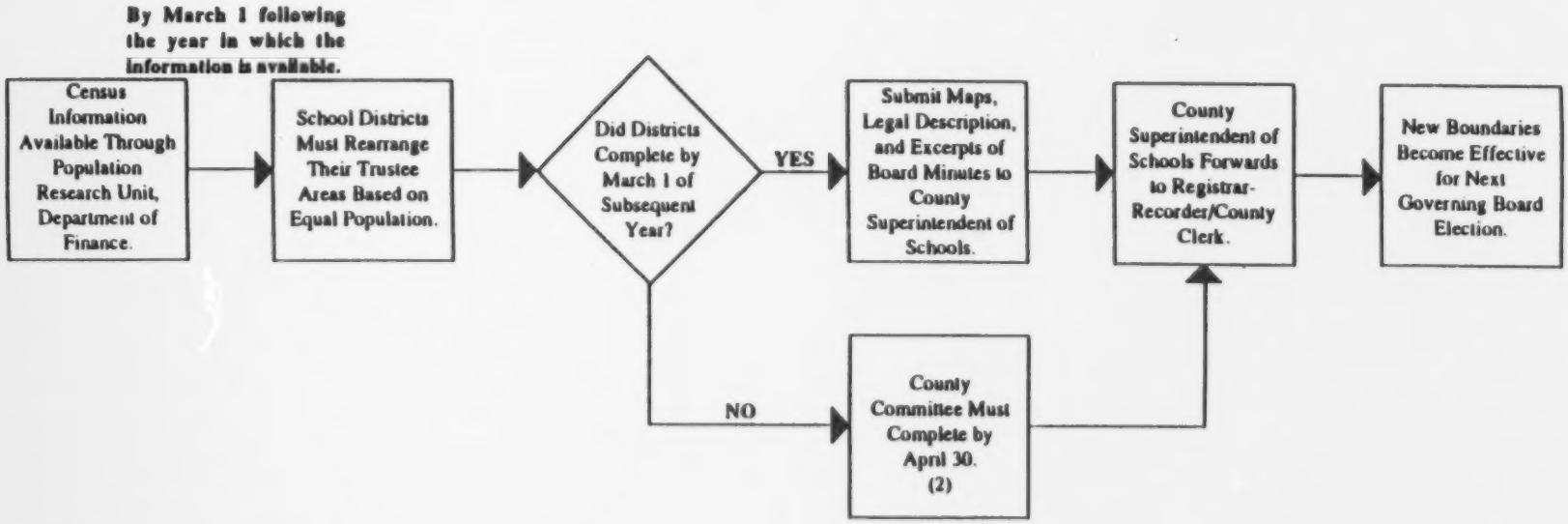
   Note: If the school or community college district fails to adjust the boundaries before the deadline date, the county committee must do so before April 30 of the same year. (All costs incurred by the county committee in adjusting the boundaries must be reimbursed by the school district.) (EC 5019.5(2)(b))

2. A copy of the map outlining the rearranged trustee areas and a legal written description describing the boundaries of the trustee areas must be submitted to the county superintendent of schools and the registrar/recorder/county clerk. (EC 5031)

FLOWCHART X-2

OTHER FUNCTIONS OF THE COUNTY COMMITTEE

REARRANGEMENT OF TRUSTEE AREAS BASED ON FEDERAL DECENNIAL CENSUS (EC § 5019.5)


By March 1 following the year in which the information is available.
Census Information Available Through Population Research Unit, Department of Finance.
School Districts Must Rearrange Their Trustee Areas Based on Equal Population.
Did Districts Complete by March 1 of Subsequent Year?
YES
Submit Maps, Legal Description, and Excerpts of Board Minutes to County Superintendent of Schools.
County Superintendent of Schools Forwards to Registrar-Recorder/County Clerk.
New Boundaries Become Effective for Next Governing Board Election.
NO
County Committee Must Complete by April 30. (2)

6-X

(1) Only school districts with trustee areas, whereby governing board members residing within the trustee area is voted for only by the registered voters within that trustee area, must comply.

(2) All costs incurred by the County Committee in rearranging the trustee area boundaries shall be reimbursed by the school district.

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B. Process: Quick Reference Chart X-6

ALTERNATE METHODS OF ELECTING GOVERNING BOARD MEMBERS
(Refer to Flowchart X-1.)

1. County committee receives request/initiates action to select an alternate method of electing governing board members. (EC 5019)
2. County committee calls and conducts at least one public hearing in the district on the matter. (EC 5019)
3. At the conclusion of the hearing, the county committee approves/disapproves the proposal. (EC 5019)
4. If approved, the proposal takes effect at the next governing board election. (Any affected board member must serve out his/her term.) (EC 5030)

C. Legal Provisions: Supporting Actions

1. Trustee Areas/Trustee Membership/Methods of Election

   a. Powers of the County Committee. Except for a school district or community college district governed by a board of education provided for in the city/county charter, the county committee has the power to:

      1) Create/abolish trustee areas. (EC 5019)

      2) Increase/decrease the number of members of the governing board from five to seven or seven to five, respectively. (EC 5019)

      3) Rearrange the boundaries of trustee areas (separate from realigning trustee areas) based on the decennial federal census. (EC 5019.5)

      4) Adopt one of the alternate methods of electing governing board members. (EC 5030)

      Any of the above processes may be initiated by:

      1) County committee

      2) Resolution of the governing board of the district

      3) Petition

         a) Signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters *or*

         b) Signed by 2 percent or 250, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 or more qualified registered voters

      Note: The number of qualified registered voters is based on the most recent report submitted by the county clerk to the Secretary of State under Section 610 or 6460 of the Elections Code.

   b. Elections in Chartered Cities/Districts. In the State of California, there are a number of chartered cities and chartered school districts. In these districts, governing boards are elected under the provisions of the law governing the respective cities. (EC 5220)

      Whenever the charter of a city fails to provide for the manner in which, the times at which, or the terms for which the members of the city board of education will be elected or appointed, or for their qualifications or removal, or for the number which shall constitute such board, the Education Code sections relating to these matters must apply. (EC 5222)

c. Procedures and Time Lines. Once the county committee has received a proposal, it is required to call and conduct at least one public hearing in the district (no legal time frame specified for conducting hearing). Subsequent to the hearing, the county committee must either approve or disapprove the proposal. (EC 5019)

The county committee's action to approve a proposal has different meanings, depending upon the proposal itself. For example, approval for the rearrangement of trustee area boundaries requires no further action (unless a petition is received), whereas approval of other proposals may constitute an order of election. It should be noted that an election is held only (1) for the establishment/abolishment of trustee areas; (2) when a 5 percent petition is received requesting an election for the rearrangement of trustee areas; or (3) for an increase/decrease in the number of members of a governing board. (EC 5020)

Depending on the type of proposal, any measure that must go to election must be placed on the ballot for an election not later than the next succeeding statewide primary or general election or the next regularly scheduled district election, provided that there is sufficient time to place the issue on the ballot. (The county superintendent of schools requires a minimum of 120 days prior to the election date to order the election.) (EC 5020)

1) Creation/Abolishment of Trustee Areas or Increase/Decrease in the Number of Governing Board Members (See Flowchart X-1.)

The resolution of the county committee to *establish/abolish trustee areas* or to *increase/decrease the number of trustees* on a governing board must constitute an order of election, which must take place not later than the next succeeding election for members of the governing board. This same time frame must also apply to a petition, signed by at least 5 percent of the district's registered voters, requesting an election on a proposal to rearrange trustee area boundaries, provided that there is sufficient time to place the measure on the ballot. (EC 5020)

Whenever trustee areas are established in a district, provision must be made for one of the alternate methods of electing trustees. (EC 5030)

If the number of members of a governing board is increased from five to seven, the two additional members of the board must be appointed by the governing board of the district, with the term of one of the appointees to expire on the first Friday in December of the next succeeding odd-numbered year and the term of the other appointee to expire on the first Friday in December of the second succeeding odd-numbered year. (EC 5022, 5017)

For each proposal there must be a separate proposition on the ballot. If more than one proposal appears on the ballot, all must carry in order for any to become effective. (EC 5020)

2) Rearrangement of Trustee Areas (See Flowchart X-1.)

County committee approval of the *rearrangement* of trustee areas becomes effective at future elections occurring at least 120 days after the approval, unless at least 5 percent of the registered voters of the district sign a petition requesting an election. The petition must be submitted to the elections official within 60 days after the adoption of the proposal by the county committee. (EC 5019)

Whenever trustee areas are rearranged in a district, provision must be made for one of the alternate methods of electing trustees. (EC 5030)

3) Rearrangement of Trustee Areas Following Federal Decennial Census (See Flowchart X-2.)

The governing board of each school or community college district in which trustee areas have been established and in which each trustee is elected by the residents of the area he/she represents must adjust the boundaries of each trustee area so that each trustee area represents as close to the same proportion of registered voters as possible. (In multimember trustee areas, the proportion of population of each trustee area must be adjusted so that the number of trustees representing each trustee area is proportionate to the total number of trustees of the governing board.) The governing board must use the decennial federal census data and population figures validated by the Population Research Unit of the Department of Finance as a basis. (EC 5019.5)

The rearrangement of boundaries *must be completed by March 1* of the year following the release of the decennial federal census. County committee approval is not required when the district completes the realignment of its boundaries prior to March 1.

If a governing board fails to comply to the March 1 deadline, the county committee must comply before April 30 of the same year. The governing board of the school or community college district failing to comply must reimburse the county committee for all reasonable costs associated with realigning the boundaries.

Note: The above provisions do not apply to multiple campus community college districts with campuses in more than one county. (EC 5019.7)

4) Alternate Methods of Electing Governing Board Members (See Flowchart X-1.)

In any school or community college district which has trustee areas, Education Code Section 5030 provides that the county committee may at any time recommend one of the following alternate methods of electing governing board members:

a) That each member of the governing board be elected by the registered voters of the entire district;

b) That one or more members residing in each trustee area be elected by the registered voters of that particular trustee area; *or*

c) That each governing board member be elected by the registered voters of the entire school or community college district but that the member reside in the trustee area which he/she represents.

The recommendation shall provide that any affected incumbent member must serve out his/her term of office and that succeeding members must be nominated and elected in accordance with the method recommended by the county committee. (EC 5021)

In a county with a population less than 25,000, the county committee may at any time, by resolution, with respect to trustee areas established for any school district, other than a community college district, amend the provision for election, without additional approval by the electors, to require the use of one of the alternate methods of electing board members.

5) Other Changes: Trustees and Trustee Areas

a) Annexation. Whenever an elementary, high school, or unified school district or a portion of any such district is annexed to another school district in which trustee areas have been established, the county committee must study and make recommendations with respect to trustee areas of the annexing district as enlarged. The county committee must call and conduct a hearing in the district on the matter. The recommendations of the county committee must constitute an order of election and, if approved by the electors, must become effective on the same date that the reorganized district becomes effective. (EC 5023)

Note: The county committee may provide for the election of trustees, pursuant to its recommendation to rearrange trustee areas of a district (above), to be held at the same time as the election to effect a change in trustee areas (EC 5024).

b) Decreasing Number of Representatives in Trustee Areas. (Note: This provision applies only in conjunction with EC 5024.) If an election is held pursuant to EC 5020 and there are trustee areas having more than their allotted number of representatives in the membership of the governing board for the next succeeding school year, the county committee must determine by lot which board members must relinquish their offices either immediately upon the election and qualification of the governing board members who were elected as provided in EC Section 5024 or on the first day of April next succeeding the election establishing trustee areas in the district, whichever is the later. (EC 5025)

   Members elected to fill vacancies created pursuant to EC 5025 must serve out the unexpired term of the office that was terminated. The county committee must designate by lot for each newly formed trustee area the expiring term of office for which a member must be elected. (EC 5026)

c) Membership from Supervisorial Districts: County High School District Coterminous with County. Whenever the boundaries of a county high school district are coterminous with the boundaries of a county, the board must consist of one member from each supervisorial district in the county elected at large from the district. (EC 5027)

d) Membership from Community College Districts Having Five Wards. In community college districts which were divided into five wards on or before September 7, 1955, one member of the board must be elected from each ward by the registered voters of the ward. On or before January 1 of a fiscal year, the governing board of the district may rearrange the boundaries of the wards to provide for representation in accordance with population and geographic factors or may abolish the wards. (EC 5028)

e) Conformance with Precinct Boundaries. When a community college trustee ward boundary line falls upon an election precinct boundary line, and such election precinct boundary line is changed (pursuant to Section 1500 et seq. of the Elections Code), the governing board of the district must, at least 120 days prior to any trustee election, change such ward boundary line to conform to precinct boundary lines, where possible. (EC 5029)

f) Transfer of Territory to District Having Trustee Areas. Whenever territory is transferred to another district which has trustee areas, the territory being transferred must become a part of the trustee area to which it is contiguous. If the territory is contiguous to more than one

trustee area, the transfer agreement may contain provisions indicating the division of the territory among the contiguous trustee areas. (EC 35544)

g) Reorganization Proposal Containing Plans for Trustee Areas. If the reorganization plan contains a proposal for trustee areas, such proposal must be considered a part of the reorganization proposition to be voted upon, and the ballot shall include wording to that effect. (EC 35762)

h) Incumbent Governing Board Members to Serve Out Terms. If trustee areas are *established*, any affected board member must serve out his or her term of office. Succeeding board members must be nominated and elected according to the method of election and provisions specified in EC 5030. If two or more trustee areas are established at an election in which there will be no incumbent board member residing after the next election, the county committee must determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board will be made.

If trustee areas are *rearranged* and the boundary change affects the board membership, any affected incumbent board member must serve out his/her term, and succeeding board members shall be nominated and elected according to the method of election and provisions specified in EC 5030.

If trustee areas are *abolished*, the incumbent board members must serve out their terms of office, and succeeding board members must be nominated and elected at large from the district.

i) Trustee Area Boundary Requirements. The county superintendent of schools must prepare and keep in his/her office a map showing the boundaries of all trustee areas of the districts under his/her jurisdiction and also a record of all actions taken by the county committee in connection with trustee area boundaries. (EC 5031)

2. Trustee Areas; County Boards of Education. A county board of education must have either five or seven members to be determined by the county committee. Each member of the board must be an elector of the trustee area which he/she represents and must be elected by the electors of the trustee area. (EC 1000)

In chartered counties, the county charter or the county board of supervisors must prescribe the manner of determining trustee areas for the county board of education. (EC 1000)

Note: One needs to check the county charter, if there is a charter, to determine whether the charter contains provisions prescribing the methods of establishing

trustee areas, rearranging boundaries of trustee areas, or increasing or decreasing the number of members of the county board of education.

In a county unified school district or in a unified or elementary school district which includes all the territory over which a county superintendent of schools has jurisdiction, the governing board of the district must serve as the county board of education. (EC 1000)

Upon being so requested by the county board of education, the county committee, by a two-thirds vote of its members, may either change the boundaries of any or all of the trustee areas of the county or propose to increase or decrease the number of members of the county board of education or both. The areas must be as nearly equal in population as is practicable. Proposals must be made in writing and filed with the county board of supervisors not later than the first day of March. When the election of members of county boards of education is required to be held on the same date as that prescribed for the election of members of governing boards of school districts (as provided for in EC 1007), the county committee must fix the boundaries of trustee areas to coincide with the boundaries of school districts, where possible. If the trustee areas are coterminous with those of the supervisorial districts of the county, the election of members of the county board of education must be consolidated with the countywide election (EC 1002).

When a county committee proposes to reduce from seven to five or increase from five to seven the number of board members, the county committee must call and conduct a hearing on the matter. At the conclusion of the hearing, the county committee must, by resolution, approve or disapprove the proposal (EC 1003).

The resolution of the county committee approving a reduction or increase in the number of board members must constitute an order of election to be conducted not later than the next succeeding election for members of the board. (EC 1004)

The boundaries of any trustee area must not at any time be changed to affect the term of office of any member of the county board of education who has been elected and whose term of office has not expired. (EC 1005)

CHAPTER XI

THE APPEALS PROCESS

Chapter XI provides a brief summary of the appeals process related to transfers of territory from one district to another. The summary covers the recent Education Code revisions which amended the appeals procedures effective January 1, 1991. The issues that may be appealed, the time line, the steps the appellant must follow, and the options available to the State Board of Education are reviewed. This chapter will be particularly useful to individual petitioners or school districts contemplating the filing of appeals with the State Board of Education.

XI. APPEALS PROCESS

Effective January 1, 1991, significant changes were made regarding jurisdiction for decisionmaking in school district organization (Chapter 1658, Statutes of 1990, S.B. 1927). Under the new provisions, the State Board of Education has authority for final decisions only for school district unification proposals. County committees on school district organization have authority for final decisions over territory transfers and annexation proposals except that their decisions are subject to appeal to the State Board of Education.

A. Appeals: General (EC 35710.5)

1. The chief petitioner or any one or more of the affected school districts may appeal a county committee decision on transfers to the State Board of Education.
2. The appeal may be made only on issues of noncompliance regarding provisions of Education Code Sections as follows:
   - EC 35705. Public hearings; notice
   - EC 35706. Recommendations of county committee
   - EC 35709. Order; notification; criteria in EC 35753
   - EC 35710. Notification of approval; election; conditions; criteria in EC 35753; determination of the area of election
3. The appellant has five days, or 30 days if a school district, from the date of final action by the county committee to file the notice of appeal with the county superintendent and the county committee. The action of the county committee must be stayed pending the outcome of the appeal.
4. Within 15 days after the filing of the notice of appeal, the appellant must file a statement of reasons and factual evidence with the county committee.
5. The county committee, within 15 days of receipt of the statement, must send the statement and the complete administrative record of the county committee's proceedings to the State Board of Education.
6. The State Board of Education may elect to:
   a. Review the appeal *or*
   b. Deny review of the appeal (thus ratifying the county committee's decision).
7. The State Board of Education, if it decides to review the appeal, may:
   a. Affirm the action of the county committee *or*

b. Reverse or modify the action of the county committee and, if the petition proposal is to be voted upon, must determine the area of election.

8. The State Board of Education must notify the county committee of its decision and the county committee must then notify the county board of supervisors or the county superintendent of schools, as appropriate, pursuant to Education Code Section 35709 or 35710.

B. Appeals Based on Racial or Ethnic Integration (EC 35711)

1. Appeals made on issues of whether the school district organization proposal will adversely affect the racial or ethnic integration of schools of the affected districts must be made to the State Board of Education within 30 days of the county committee's decision.

2. The State Board of Education must notify the county committee of its decision to:

   a. Deny the request for an appeal, in which case the decision of the county committee shall stand; *or*

   b. Approve the request for appeal, in which case it shall review the findings of the county committee. The county committee shall transmit a copy of its proceedings to the State Board of Education within 30 days after receipt of notice that the State Board will review the committee's findings.

3. In reviewing the findings, the State Board of Education may:

   a. Reverse the decision of the county committee; *or*

   b. Affirm the decision of the county committee; *or*

   c. Direct the county committee to reconsider its decision and to hold another hearing if the Board's review appears to indicate that inadequate consideration was given to the effect of the transfer on integration of the schools of the affected districts.

CHAPTER XII

PROCEDURES FOR REORGANIZING COMMUNITY COLLEGES

The legal requirements for district organization which apply to community college districts are discussed in this chapter. The reason for including procedures affecting the community colleges in this handbook is that county committees on school district organization have responsibilities affecting the community college districts. Otherwise, the functions performed by the State Board of Education for K–12 school districts are performed for community college districts by the Board of Governors of the California Community Colleges. The legal requirements affecting community college districts are published here for the convenience of the county committees on school district organization.

XII. PROCEDURES FOR REORGANIZING COMMUNITY COLLEGES

The procedures for the reorganization of community college districts were substantially revised by 1990 legislation. As noted in Education Code Section 74001, the provisions of Article 1 (commencing with Section 4000) of Chapter 1 of Part 3 and Articles 2 and 3 (commencing with Section 35720) of Chapter 4 of Part 21 of the Education Code must apply to actions to reorganize community college districts, as may be applicable, except that whenever any reference is made to the California Department of Education in those provisions, the reference must be deemed, for the purpose of community college district reorganization, to be the Board of Governors of the California Community Colleges.

In general, the procedures for reorganization are comparable with those involving the reorganization of elementary, high, and unified school districts. Districts, county committees, county superintendents' offices, Boards of Supervisors, and the Board of Governors of the California Community Colleges are each responsible for certain phases in the reorganization procedure. For this reason, Chapter XII has been included in this reference manual.

A. Transfer of Territory

Transfer of territory from one district to another is initiated by a petition signed by either at least 25 percent of the registered voters in the territory or a majority of the members of the governing board of each district affected. (EC 74100)

If the transfer involves a change of territory affecting less than 5 percent of the adult population of the district for which the transfer is being made, the petition may be transmitted by the county superintendent directly to the county board of supervisors and is effective without further review. This procedure may not be utilized more than once every five years. (EC 74104)

The committee must analyze the petition and hold one or more public hearings. The governing board of the district to which the territory is to be transferred must consent to the transfer. If the committee approves the petition, it must transmit the petition and information thereon to the Board of Governors of the Community College for review. (EC 74105, 74107, 74108, 74109)

B. Annexation

An annexation of territory which is not in any community college district differs from other transfers in that the petition may be signed by 25 percent of the registered voters, by a majority of the board members of the community college district, or by a majority of the members of the governing board of the high school or unified school district seeking annexation. Again, the governing board of the community college district must consent to the terms of the annexation. (EC 74130, 74131, 74137)

C. Formation

New community college districts may be formed, either out of territory not now in a district or with the territory of one or more districts. The petition may be signed by 25 percent of the registered voters in the territory or by 25 percent of the voters in each of the affected existing districts or by a majority of the governing board of each community college district and each high school or unified district to be formed into the new district. The governing boards of all affected districts must consent to the formation. (EC 74150, 74151, 74156)

D. Procedures for Districts Located Within Different Counties

When an action to reorganize or form districts would affect territory which is located in more than one county, or which is under the jurisdiction of more than one county superintendent of schools, the proceedings to be conducted or the actions to be taken by county officers or agencies must be conducted or taken according to the provisions of Article 3 (commencing with Section 35520) of Chapter 3 of Part 21 of the Education Code. (EC 74180)

E. Review by State Agencies

The board of governors may hear appeals on the findings of the county committee that the proposed transfer, annexation, or formation will not adversely affect the racial or ethnic composition of the affected colleges. If it disapproves of the proposal, the board of governors must provide a written basis for its rejection. (EC 74201, 74205)

F. Elections and Board of Supervisors' Procedures

If the board of governors approves a proposal which results in a change in governing boards, the county superintendent must call an election. (EC 74230)

If approval is given pursuant to Education Code Section 74205 to a reorganization proposal which results in an increase in taxes levied on behalf of the districts involved or which requires changes in district governing boards, such as a change that results in the reapportionment of trustee areas or a change in the number of trustee areas, the county superintendent of schools, within 30 days after receiving notification pursuant to Section 74205, must call an election. The election must be called in the manner prescribed in Part 4 (commencing with Section 5000) and must be conducted at the next available regular election scheduled in the territory of districts defined in the approved proposal according to the procedures prescribed by Sections 35757 to 35764 inclusive. (EC 74230) If those results are not present, the county committee action becomes effective when filed with the county board of supervisors. (EC 74250)

After the board of supervisors receives official notification that an action to reorganize districts has been approved as provided by law, the board of supervisors must issue an order to change districts where required by the action and to establish or reestablish the

boundaries of the districts affected by the action. The order must be entered in the county's record of districts.

If the action results in a change of district boundaries of the type described in Section 54900 of the Government Code, the order of the board of supervisors must include the legal description of each district changed in the action, and, immediately after making the order, the board of supervisors must cause a copy of the order and a map or plat indicating the boundaries established for each district affected by the order to be filed as required by Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code. (EC 74250)

EC 74251 provides that:

1. An action to reorganize districts is complete when the board of supervisors makes the order pursuant to Section 74250.
2. After the expiration of one year from the date of the order, the order will be conclusive evidence that the district has been legally organized, or the boundaries legally changed, as the case may be, and no suit will be maintained which questions the validity of the organization or change of boundaries.
3. For purposes of district tax revenues and governance, the order will be effective as of the beginning of the succeeding fiscal year.

G. Miscellaneous Provisions in All Reorganizational Matters (Covered in Chapter 5, Miscellaneous)

1. Applicable Education Code Sections

   ARTICLE 1—Territory of Districts

   EC 74262 Inclusion of separate territory

   EC 74263 Trustee areas

   EC 74264 Territory within boundaries of city

   ARTICLE 2—Personnel in Reorganized Districts

   EC 74270 Certificated employees; probationary employees; positions not requiring certification

   ARTICLE 3—Disposition of Records, Funds, Property, and Obligations When Reorganized

   EC 74280 Statement of agreement to transfer to provide for allocation of funds, property, and obligations; exceptions; determination of allocation

   EC 74281 Dispute resolution; arbitration; compensation and expenses

ARTICLE 4—Bonded Indebtedness of Districts When Reorganized

EC 74290 Application of article; liability for taxation; outstanding bonded indebtedness liability; tax rate

APPENDIXES

APPENDIX A

STATE BOARD OF EDUCATION REGULATIONS AND CRITERIA REGARDING SCHOOL DISTRICT REORGANIZATION

Establishment and Use of Criteria for the Reorganization of School Districts

The State Board regulations require the State Department of Education (Bureau of Management Services and Bureau of Intergroup Relations) to evaluate each petition or proposal submitted in terms of the adopted criteria and to make recommendations thereon. There is sufficient flexibility for the State Board to waive the criteria and approve whatever changes in school district organization have merit and fit the needs of a given locality, provided that the Board determines that extenuating circumstances exist which justify approval.

CALIFORNIA CODE OF REGULATIONS TITLE 5

CHAPTER 4. PROCEDURES RELATING TO HEARINGS ON PROPOSALS AND PETITIONS FOR THE REORGANIZATION OF SCHOOL DISTRICTS

18570. Submission of Proposals and Petitions.

A proposal by the County Committee on School District Organization or other public agency, or a petition for the formation of a new district or the transfer of territory of one district to another, shall be submitted to the Executive Officer of the Board. The Executive Officer of the Board shall cause the proposal or petition to be:

(a) Reviewed and analyzed by the State Department of Education.

(b) Set for hearing before the State Board of Education at earliest practicable date.

(c) Transmitted, together with the report and recommendation of the Department of Education, to the Board and to such other persons as is required by law not later than ten days before the date of the hearing.

18571. Arguments Before the Board (Original Submission).

At the time and place of hearing, the Board will receive oral and/or written arguments on the proposal or petition. The Board may limit the number of speakers on each side of the issue, limit the time permitted for the presentation of a particular view, and limit the time of the individual speakers. The Board will not entertain a repetition of arguments previously presented by the same or another speaker at that meeting, or presented at a previous meeting at which the proposal or petition was considered.

18572. Resubmission of the Same or an Essentially Identical Proposal or Petition.

If the same or an essentially identical proposal or petition has been previously considered by the Board, the documents constituting such a resubmission shall be accompanied by a written summary of any new factual situations or facts not previously presented. In this case, the Board will entertain arguments not theretofore presented and hear expositions of new factual situations and of facts not previously brought to the Board's attention.

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18573. Criteria for Reorganization of School Districts.

(a) The analysis of the proposal or petition by the Department of Education shall state findings of fact and recommendations as to whether each district affected by the proposed reorganization substantially meets the following criteria and standards:

(1) It is the intent of the State Board that direct service districts not be created which will become more dependent upon county offices of education and state support unless unusual circumstances exist. Therefore, each district affected must be adequate in terms of numbers of pupils, in that:

(A) Each such district should have the following projected enrollment on the date that the proposal becomes effective or any new district becomes effective for all purposes:

Elementary District	901
High School District	301
Unified District	1,501

(B) The analysis shall state whether the projected enrollment of each affected district will increase or decline and the extent thereof.

(2) Each district affected will be adequate in terms of financial ability if:

(A) The revenue limit per unit of average daily attendance of the proposed district does not vary from the revenue limit per unit of average daily attendance in all of the affected districts by more than 15%, or

(B) The proposal does not increase costs to the State for the affected territory by more than 10%.

(3) To determine whether the new district is organized on the basis of substantial community identity, the following criteria should be considered:

(A) Isolation.
(B) Geography.
(C) Distance between social centers.
(D) Distance between school centers.
(E) Topography.
(F) Weather.
(G) Community, school, and social ties and other circumstances peculiar to the area.

(4) To determine whether an equitable division of property and facilities will occur, the Department will determine which of the criteria authorized in Education Code Section 35736 shall be applied. It shall also ascertain that the affected districts and the County Office of Education are prepared to appoint the committee described in Education Code Section 35565 to settle disputes arising from such division of property.

(5) To determine whether the new districts will promote racial or ethnic discrimination or segregation, the Department, through the Bureau of Intergroup Relations, will consider the effects of the following criteria:

(A) The number and percentage of pupils in each racial and ethnic group in the affected districts as proposed by the transfer of territory.

(B) The number and percentage of pupils in each racial and ethnic group of the schools of the districts affected.

(C) The number and percentage of pupils in each racial and ethnic group in the schools in the districts affected with those of other schools in adjacent areas of the districts affected.

(D) The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the total district, and in each school, of the districts affected.

(E) The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts.

(F) The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an affect on the feasibility of integration of the affected schools.

(G) The effect of the proposal on the duty of the governing board of each of the districts affected to adopt and implement a plan for the alleviation of segregation of minority pupils under Sections 90 through 101.

(6) The proposal shall not significantly adversely affect the educational programs of districts affected by the proposal. In analyzing the proposal or petition, the department shall describe the district-wide programs, and the school site programs, in schools not a part of the proposal that will be adversely affected by the proposal.

(b) The Board may waive the criteria specified in subsections (a)(1) through (a)(6) of this section and may approve a petition or proposal if the Board determines circumstances with respect to the petition or proposal provide an exceptional situation sufficient to justify approval.

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APPENDIX B

CHARTERED COUNTIES, CITIES, AND SCHOOL DISTRICTS

The following three lists contain the names of presently chartered counties, cities, and school districts.

The county committee does not have the power to regulate the election of members to county boards of education in the listed counties, unless specified in county charter. (1000)

The county committee does not have the power to regulate the election of members to city boards of education in the city districts listed, unless specified in charter. (5220)

In connection with the proposed formation of a new unified school district to include within its boundaries a chartered city the boundaries of which will not be coterminous with those of the unified district, the county committee may provide that the establishment and existence of the governing board of the district shall be governed exclusively by general law and not by the charter of the city. (4360)

CHARTERED COUNTIES OF CALIFORNIA, 1986

Alameda	Placer	San Francisco
Butte	Sacramento	San Mateo
Fresno	San Bernardino	Santa Clara
Los Angeles	San Diego	Tehama

CHARTERED CITIES OF CALIFORNIA, 1986

Alameda
Albany
Alhambra
Anaheim
Arcadia
Bakersfield
Berkeley
Big Bear Lake
Burbank
Cerritos
Chico
Chula Vista
Compton
Culver City
Cypress
Del Mar
Downey
Eureka
Fresno
Gilroy
Glendale
Grass Valley
Hayward
Huntington Beach
Industry
Inglewood
Irvine
Irwindale
Loma Linda
Long Beach
Los Alamitos
Los Angeles
Marysville
Merced
Modesto
Monterey
Mountain View
Napa
Needles
Newport Beach
Oakland
Oroville
Pacific Grove
Palo Alto
Pasadena
Petaluma
Piedmont
Placentia
Pomona
Porterville
Redondo Beach
Redwood City
Richmond
Riverside
Roseville
Sacramento
Salinas
San Bernardino
San Diego
San Francisco
San Jose
San Leandro
San Luis Obispo
San Mateo
San Rafael
Santa Ana
Santa Barbara
Santa Clara
Santa Cruz
Santa Monica
Santa Rosa
Seal Beach
Stockton
Sunnyvale
Temple City
Torrance
Tulare
Vallejo
Ventura
Visalia
Watsonville
Whittier

Chartered City Districts, 1977

County and District

ALAMEDA COUNTY

- Alameda Unified
- Albany Unified
- Berkely Unified
- Castro Valley Unified
- Oakland Unified
- Piedmont Unified
- San Leandro Unified

BUTTE COUNTY

- Chico Unified
- Oroville City Elementary

CONTRA COSTA COUNTY

- Richmond Unified

HUMBOLDT COUNTY

- Eureka City Unified

KERN COUNTY

- Bakersfield City Elementary

LOS ANGELES COUNTY

- Alhambra City Elementary and Alhambra City High Arcadia Unified
- Burbank Unified
- Glendale Unified
- Inglewood Unified
- Long Beach Unified
- Los Angeles Unified
- Pasadena Unified
- Santa Monica Unified
- Redondo Beach Unified

MARIN COUNTY

- San Rafael City Elementary and San Rafael City High

MERCED COUNTY

Merced City Elementary

MONTEREY COUNTY

Monterey Peninsula Unified Salinas City Elementary

ORANGE COUNTY

Huntington Beach City Elementary Santa Ana Unified

PLACER COUNTY

Roseville City Elementary

RIVERSIDE COUNTY

Riverside Unified

SACRAMENTO COUNTY

Sacramento Unified

SAN BERNARDINO COUNTY

San Bernardino City Unified

SAN DIEGO

San Diego City Unified
Chula Vista City Elementary

SAN FRANCISCO COUNTY

San Francisco Unified

SAN JOAQUIN COUNTY

Stockton City Elementary

SAN LUIS OBISPO COUNTY

San Luis Coastal Unified

SAN MATEO COUNTY

San Mateo City Elementary
Redwood City Elementary

SANTA BARBARA COUNTY

Santa Barbara City Elementary and Santa Barbara City High

SANTA CLARA COUNTY
Palo Alto City Unified
Sunnyvale Elementary

SANTA CRUZ COUNTY

Santa Cruz City Elementary and Santa Cruz City High

SOMONA COUNTY

Petaluma City Elementary and Petaluma Joint High Santa Rose City Elementary and Santa Rose City High

STANISLAUS COUNTY

Modesto City Elementary

TULARE COUNTY

Tulare City Elementary
Visalia Unified

VENTURA COUNTY

Ventura Unified

APPENDIX C

THE RALPH M. BROWN ACT RELATING TO PUBLIC MEETINGS

GOVERNMENT CODE

§ 54950. Declaration, intent; sovereignty

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

(Added by Stats.1953, c. 1588, p. 3270, § 1.)

§ 54950.5. Short title

This chapter shall be known as the Ralph M. Brown Act.

(Added by Stats.1961, c. 115, p. 1127, § 1.)

§ 54951. Local agency, definition

As used in this chapter, "local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

(Added by Stats.1953, c. 1588, p. 3270, § 1. Amended by Stats.1959, c. 1417, p. 3696, § 1.)

§ 54951.1. Local agency; private nonprofit organizations included

For the purposes of this chapter, and to the extent not inconsistent with federal law, the term "local agency" shall include all private nonprofit organizations that receive public money to be expended for public purposes pursuant to the "Economic Opportunity Act of 1964" (P.L. 88-452; 78 Stat. 508).[1]

(Added by Stats.1967, c. 1384, p. 3243, § 1.)

[1] 42 U.S.C.A. § 2701 et seq.

§ 54951.7. Local agency as including nonprofit corporation appointed by local agency to acquire, construct, maintain or operate public work project

"Local agency" includes any nonprofit corporation, created by one or more local agencies, any one of the members of whose board of directors is appointed by such local agencies and which is formed to acquire, construct, reconstruct, maintain or operate any public work project.

(Added by Stats.1970, c. 710, p. 1337, § 1. Amended by Stats.1981, c. 968, § 24.)

§ 54952. Legislative body, definition

As used in this chapter, "legislative body" means the governing board, commission, directors or body of a local agency, or any board or commission thereof, and shall include any board, commission, committee, or other body on which officers of a local agency serve in their official capacity as members and which is supported in whole or in part by funds provided by such agency, whether such board, commission, committee or other body is organized and operated by such local agency or by a private corporation.

(Added by Stats.1953, c. 1588, p. 3270, § 1. Amended by Stats.1961, c. 1671, p. 3637, § 1.)

§ 54952.2. "Legislative body" as including body with delegated authority

As used in this chapter, "legislative body" also means any board, commission, committee, or similar multimember body which exercises any authority of a legislative body of a local agency delegated to it by that legislative body.

(Added by Stats.1981, c. 968, § 25.)

§ 54952.3. "Legislative body" as including advisory bodies

As used in this chapter "legislative body" also includes any advisory commission, advisory committee or advisory body of a local agency, created by charter, ordinance, resolution, or by any similar formal action of a legislative body or member of a legislative body of a local agency.

Meetings of such advisory commissions, committees or bodies concerning subjects which do not require an examination of facts and data outside the territory of the local agency shall be held within the territory of the local agency and shall be open and public, and notice

thereof must be delivered personally or by mail at least 24 hours before the time of such meeting to each person who has requested, in writing, notice of such meeting.

If the advisory commission, committee or body elects to provide for the holding of regular meetings, it shall provide by bylaws, or by whatever other rule is utilized by that advisory body for the conduct of its business, for the time and place for holding such regular meetings. No other notice of regular meetings is required.

"Legislative body" as defined in this section does not include a committee composed solely of members of the governing body of a local agency which are less than a quorum of such governing body.

The provisions of Sections 54954, 54955, 54955.1, and 54956 shall not apply to meetings under this section.

(Added by Stats.1968, c. 1297, p. 2444, § 1. Amended by Stats.1975, c. 959, p. 2241, § 7; Stats.1981, c. 968, § 26.)

§ 54952.5. Legislative body as including permanent boards or commissions of local agencies

As used in this chapter "legislative body" also includes, but is not limited to, planning commissions, library boards, recreation commissions, and other permanent boards or commissions of a local agency.

(Added by Stats.1961, c. 1671, p. 3637, § 2.)

§ 54952.6. Action taken, definition

As used in this chapter, "action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

(Added by Stats.1961, c. 1671, p. 3637, § 3.)

§ 54952.7. Copies of chapter to members of legislative body of local agencies

A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

(Added by Stats.1980, c. 1284, p. 4341, § 17. Amended by Stats.1981, c. 968, § 27.)

§ 54953. (First of two; Operative until January 1, 1994) Meetings to be open and public

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) Notwithstanding any other provision of law, the legislative body of a local agency may use video teleconferencing for the benefit of the public or the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The use of video teleconferencing, as authorized by this chapter, shall be limited to the receipt of public comment or testimony by the legislative body and to deliberations of the legislative body. If the legislative body of a local agency elects to use video teleconferencing, it shall post agendas at all video teleconference locations and adopt reasonable regulations to adequately protect the statutory or constitutional rights of the parties or the public appearing before the legislative body of a local agency. The term "video teleconference" shall mean a system which provides for both audio and visual participation between all members of the legislative body and the public attending a meeting or hearing at any video teleconference location.

This section shall remain in effect until January 1, 1994, and on that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1994, deletes or extends that date.

Amended Stats 1988 ch 399 sec 1, operative until January 1, 1994.

Amendments:

1988 Amendment: (1) Designated the former section to be subd (a); and (2) added subd (b) and the last paragraph.

§ 54953. (Second of two; Operative January 1, 1994) Meetings to be open and public

All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

This section shall become operative January 1, 1994.

Added Stats 1988 ch 399 sec 2, operative January 1, 1994.

§ 54953.1. Testimony of members before grand jury

The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

(Added by Stats.1979, c. 950, p. 3277, § 1.)

§ 54953.3. Conditions to attendance

A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

(Added by Stats.1957, c. 85, p. 664, § 1. Amended by Stats.1981, c. 968, § 28.)

§ 54953.5. Tape recording of meetings

Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings on a tape recorder in the absence of a reasonable finding of the legislative body of the local agency that such recording constitutes, or would constitute, a disruption of the proceedings.

(Added by Stats.1980, c. 1284, p. 4341, § 18.)

§ 54953.7. Allowance of greater access to meetings than minimal standards in this chapter

Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in this chapter. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed legislative bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body.

(Added by Stats.1981, c. 968, § 29.)

§ 54954. Time and place of regular meetings; holidays; emergencies

The legislative body of a local agency shall provide, by ordinance, resolution, by-laws, or by whatever other rule is required for the conduct of business by that body, the time for holding regular meetings. Unless otherwise provided for in the act under which the local agency was formed, meetings of the legislative body need not be held within the boundaries of the territory over which the local agency exercises jurisdiction. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day. If, by reason of fire, flood, earthquake or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the presiding officer of the legislative body.

(Added by Stats.1953, c. 1588, p. 3270, § 1.)

§ 54954.1. Request for notice; Renewal; Annual Fee

The legislative body which is subject to the provisions of this chapter shall give mailed notice of every regular meeting, and any special meeting which is called at least one week prior to the date set for the meeting, to any person who has filed a written request for that notice with the legislative body. Any mailed notice required pursuant to this section shall be mailed at least one week prior to the date set for the meeting to which it applies except that the legislative body may give the notice as it deems practical of special meetings called less than seven days prior to the date set for the meeting.

Any request for notice filed pursuant to this section shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for notice shall be filed within 90 days after January 1 of each year.

The failure of any person to receive the notice given pursuant to this section shall not constitute grounds for any court to invalidate the actions of the legislative body for which the notice was given.

The legislative body may establish a reasonable annual fee for sending the notice based on the estimated cost of providing the service.

Amended Stats 1990 ch 1198 § 1 (AB 4065).

54954.2. (a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. No action shall be taken on any item not appearing on the posted agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the following conditions:

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the legislative body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that the need to take action arose subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken. (Added by Stats. 1986, c.641.)

§ 54954.3. Public testimony at regular meetings

(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on *any item of interest to the public, before or during the legislative body's consideration of the item, that is* within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, in the case of a meeting of a city council in a city or a board of supervisors in a city and county, the agenda need not provide an opportunity for members of the public to address the council or board on any item that has already been considered by a committee, composed exclusively of members of the council or board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, *before or during the committee's consideration of the item*, unless the item has been substantially changed since the committee heard the item, as determined by the council or board.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

Amended Stats 1991 ch 66 § 1 (SB 100).

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§ 54954.4. Legislative findings and declarations relating to reimbursements; Legislative intent; Review of claims

(a) The Legislature hereby finds and declares that Section 12 of Chapter 641 of the Statutes of 1986, authorizing reimbursement to local agencies and school districts for costs mandated by the state pursuant to that act, shall be interpreted strictly. The intent of the Legislature is to provide reimbursement for only those costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986.

(b) In this regard, the Legislature directs all state employees and officials involved in reviewing or authorizing claims for reimbursement, or otherwise participating in the reimbursement process, to rigorously review each claim and authorize only those claims, or parts thereof, which represent costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986 and for which complete documentation exists. For purposes of Section 54954.2, costs eligible for reimbursement shall only include the actual cost to post a single agenda for any one meeting.

(c) The Legislature hereby finds and declares that complete, faithful, and uninterrupted compliance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) is a matter of overriding public importance. Unless specifically stated, no future Budget Act, or related budget enactments, shall, in any manner, be interpreted to suspend, eliminate, or otherwise modify the legal obligation and duty of local agencies to fully comply with Chapter 641 of the Statutes of 1986 in a complete, faithful, and uninterrupted manner.

Added Stats 1991 ch 238 § 1 (AB 102).

§ 54954.6. New or increased taxes or assessments; hearings; notice

(a)(1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a city, county, or special district shall conduct at least one public meeting at which local officials must allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

(2) The legislative body shall provide at least 45 days' public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

(b)(1) The notice of the public hearing required by paragraph (2) of subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation for three weeks pursuant to Section 6063 and by a first-class mailing to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new or increased general taxes. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) shall include, but not be limited to, the following:

(A) The amount or rate of the tax.

(B) The activity to be taxed.

(C) The estimated amount of revenue to be raised by the tax annually.

(D) The dates, times, and locations of the public hearings described in subdivision (a).

(E) The phone number or address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.

(c)(1) The notice of the public hearing required by paragraph (2) of subdivision (a) with respect to a proposal for a new or increased assessment on real property shall be accomplished through a mailing, postage prepaid, in the United States mail and shall be deemed given when so deposited. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be given to all property owners by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll or the State Board of Equalization assessment roll, as the case may be.

(2) The notice required by paragraph (1) shall include, but not be limited to, the following:

(A) The estimated amount of the assessment per parcel.

(B) A general description of the purpose or improvements that the assessment will fund.

(C) The address to which property owners may mail a protest against the assessment.

(D) If applicable, a statement that a majority protest shall cause the assessment to be abandoned.

(E) The dates, times, and locations of the public hearings described in subdivision (a).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decisionmaking process.

(e) Subdivisions (b) and (c) shall not apply to any new or increased general tax or any new or increased assessment that requires an election of the property owners or registered voters subject to the proposed general tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated hearing at which the legislative body discusses multiple tax or assessment proposals.

(g) The local agency may recover the costs of the hearing and notice required by this section from the proceeds of the tax or assessment.

(Added by Stats.1992, c. 1234 (S.B.1977), § 2.)

§ 54955. Adjournment; adjourned meetings

The legislative body of a local agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the legislative body may declare the meeting adjourned to a stated time and place and he shall cause a written notice of the adjournment to be given in the same manner as provided in Section 54956 for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, by law, or other rule.

(Added by Stats.1953, c. 1588, p. 3270, § 1. Amended by Stats.1955, c. 760, p. 1254, § 1; Stats.1959, c. 647, p. 2626, § 1.)

§ 54955.1. Continuance

Any hearing being held, or noticed or ordered to be held, by a legislative body of a local agency at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the legislative body in the same manner and to the same extent set forth in Section 54955 for the adjournment of meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

(Added by Stats.1965, c. 469, p. 1775, § 1.)

§ 54956. Special meetings; call; notice

54956. A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering personally, or by mail written notice to each member of the legislative body and to each local newspaper of general circulation, radio or television station requesting notice in writing. The notice shall be delivered personally or by mail and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public. (Amended by Stats. 1986, c.641.)

§ 54956.5. Emergency meetings in emergency situations

54956.5. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

For purposes of this section, "emergency situation" means any of the following:

(a) Work stoppage or other activity which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) Crippling disaster which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

However, each local newspaper of general circulation and radio or television station which has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting by telephone and all telephone numbers provided in the most recent request of such newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

Notwithstanding Section 54957, the legislative body shall not meet in closed session during a meeting called pursuant to this section.

All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible. (Amended by Stats. 1986, c.641.)

§ 54956.6. Fees

No fees may be charged by the legislative body of a local agency for carrying out any provision of this chapter, except as specifically authorized by this chapter.

(Added by Stats.1980, c. 1284, p. 4342, § 20.)

§ 54956.7. Closed sessions, license applications; rehabilitated criminals

Whenever a legislative body of a local agency determines that it is necessary to discuss and determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license, the legislative body may hold a closed session with the applicant and the applicant's attorney, if any, for the purpose of holding the discussion and making the determination. If the legislative body determines, as a result of the closed session, that the issuance or renewal of the license should be denied, the applicant shall be offered the opportunity to withdraw the application. If the applicant withdraws the application, no record shall be kept of the discussions or decisions made at the closed session and all matters relating to the closed session shall be confidential. If the applicant does not withdraw the application, the legislative body shall take action at the public meeting during which the closed session is held or at its next public meeting denying the application for the license but all matters relating to the closed session are confidential and shall not be disclosed without the consent of the applicant, except in an action by an applicant who has been denied a license challenging the denial of the license.

(Added by Stats.1982, c. 298, § 1.)

§ 54956.8. Closed sessions regarding real property negotiations

Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies the real property or real properties which the negotiations may concern and the person or persons with whom its negotiator may negotiate.

For the purpose of this section, the negotiator may be a member of the legislative body of the local agency.

For purposes of this section, "lease" includes renewal or renegotiation of a lease.

Nothing in this section shall preclude a local agency from holding a closed session for discussions regarding eminent domain proceedings pursuant to Section 54956.9.

Added Stats 1984 ch 1126 § 2.

§ 54956.9. Closed sessions regarding pending litigation; Lawyer-client privilege

Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter. For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(a) An adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator, to which the local agency is a party, has been initiated formally.

(b) (1) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(2) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) of this subdivision.

(c) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state publicly to which subdivision it is pursuant. If the session is closed pursuant to subdivision (a), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

The legal counsel of the legislative body of the local agency shall prepare and submit to the body a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to subdivision (a), the memorandum shall include the title of the litigation. If the closed session is pursuant to subdivision (b) or (c), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the body prior to the closed session if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.1.

For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

Amended Stats 1987 ch 1320 § 5.

§ 54956.95. Closed sessions; insurance pooling; tort liability losses; public liability losses; workers' compensation liability

a) Nothing in this chapter shall be construed to prevent a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, for purposes of insurance pooling, or a local agency member of the joint powers agency, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the joint powers agency or a local agency member of the joint powers agency.

b) Nothing in this chapter shall be construed to prevent the Local Agency Self-Insurance Authority formed pursuant to Chapter 5.5 (commencing with Section 6599.01) of Division 7 of Title 1, or a local agency member of the authority, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the authority or a local agency member of the authority.

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(c) Nothing in this section shall be construed to affect Section 54956.9 with respect to any other local agency.

(Added by Stats.1989, c. 882, § 3.)

§ 54957. Closed sessions; exclusion of witnesses

Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, sheriff, or chief of police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities, or from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against such employee by another person or employee unless such employee requests a public hearing. The legislative body also may exclude from any such public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

For the purposes of this section, the term "employee" shall not include any person elected to office, or appointed to an office by the legislative body of a local agency; provided, however, that nonelective positions of city manager, county administrator, city attorney, county counsel, or a department head or other similar administrative officer of a local agency shall be considered employee positions; and provided further that nonelective positions of general manager, chief engineer, legal counsel, district secretary, auditor, assessor, treasurer, or tax collector of any governmental district supplying services within limited boundaries shall be deemed employee positions.

Nothing in this chapter shall be construed to prevent any board, commission, committee, or other body organized and operated by any private organization as defined in Section 54952 from holding closed sessions to consider (a) matters affecting the national security, or (b) the appointment, employment, evaluation of performance, or dismissal of an employee or to hear complaints or charges brought against such employee by another person or employee unless such employee requests a public hearing. Such body also may exclude from any such public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(Added by Stats.1953, c. 1588, p. 3271, § 1. Amended by Stats.1957, c. 1314, p. 2633, § 1; Stats.1959, c. 647, p. 2626, § 2; Stats.1961, c. 1671, p. 3637, § 4; Stats.1971, c. 587, p. 1180, § 1; Stats.1975, c. 959, p. 2241, § 8; Stats.1980, c. 1284, p. 4342, § 21; Stats.1982, c. 298, § 2.)

§ 54957.1. Closed sessions; public report of action taken

The legislative body of any local agency shall publicly report at the public meeting during which the closed session is held or at its next public meeting any action taken, and any roll call vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the legislative body.

(Added by Stats.1975, c. 959, p. 2242, § 9. Amended by Stats.1977, c. 89, p. 506, § 1; Stats.1980, c. 181, p. 402, § 1; Stats.1980, c. 1284, p. 4343, § 22.)

§ 54957.2. Minute book record of closed sessions; inspection

(a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. Such minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

(Added by Stats.1976, c. 1363, p. 6207, § 1. Amended by Stats.1980, c. 1284, p. 4343, § 23; Stats.1981, c. 968, § 31.)

§ 54957.5. Agendas and other writings distributed for discussion or consideration at public meetings; public records; inspection; closed sessions

(a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by a member, officer, employee, or agent of such body for discussion or consideration at a public meeting of such body, are public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) as soon as distributed, and shall be made available pursuant to Sections 6253 and 6256. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7.

(b) Writings which are public records under subdivision (a) and which are distributed prior to commencement of a public meeting shall be made available for public inspection upon request prior to commencement of such meeting.

(c) Writings which are public records under subdivision (a) and which are distributed during a public meeting and prior to commencement of their discussion at such meeting shall be made available for public inspection prior to commencement of, and during, their discussion at such meeting.

(d) Writings which are public records under subdivision (a) and which are distributed during their discussion at a public meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

(e) Nothing in this section shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6257. The writings described in subdivisions (b), (c), and (d) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250), Division 7, Title 1), and subdivisions (b), (c), and (d) shall not be construed to exempt from public inspection any record covered by that act, or to limit the public's right to inspect any record required to be disclosed by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a legislative body of the local agency. Nothing in this chapter shall be construed to require a legislative body or a local agency to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

(Added by Stats.1980, c. 1284, p. 4343, § 24. Amended by Stats.1981, c. 968, § 32.)

§ 54957.6. Closed sessions; legislative body of local agencies; salaries, salary schedules or fringe benefits

54957.6. (a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees. Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency's designated representatives. Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) In addition to the closed sessions authorized by subdivision (a), the legislative body, as defined by Sections 54952, 54952.2, 54952.3, and 54952.5, of a public agency, as defined by subdivision (c) of Section 3501, may hold closed sessions with its designated representatives on mandatory subjects within the scope of representation of its represented employees, as determined pursuant to Section 3504. (Amended by Stats. 1986, c.248.)

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§ 54957.7. Closed sessions; statement of reasons and legal authority; scope of coverage; notice

Prior to or after holding any closed session, the legislative body of the local agency shall state the general reason or reasons for the closed session, and may cite the statutory authority, including the specific section and subdivision, or other legal authority under which the session is being held. In the closed session, the legislative body may consider only those matters covered in its statement. In the case of special, adjourned, and continued meetings, the statement shall be made as part of the notice provided for the special, adjourned, or continued meeting. Nothing in this section shall require or authorize the giving of names or other information which would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session.

(Added by Stats.1980, c. 1284, p. 4344, § 26. Amended by Stats.1981, c. 968, § 33.)

§ 54957.8. Closed sessions; legislative body of multijurisdictional drug law enforcement agency

Nothing contained in this chapter shall be construed to prevent the legislative body of a multijurisdictional drug law enforcement agency, or an advisory body of a multijurisdictional drug law enforcement agency from holding closed sessions to discuss the case records of any ongoing criminal investigation of the multijurisdictional drug law enforcement agency or of any party to the joint powers agreement, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.

"Multijurisdictional drug law enforcement agency," for purposes of this section, means a joint powers entity formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, which provides drug law enforcement services for the parties to the joint powers agreement.

The Legislature finds and declares that this section is within the public interest, in that its provisions are necessary to prevent the impairment of ongoing law enforcement investigations, to protect witnesses and informants, and to permit the discussion of effective courses of action in particular cases.

(Added by Stats.1988, c. 55, § 1.)

§ 54957.9. Disorderly conduct of general public during meeting; clearing of room

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

(Added by Stats.1970, c. 1610, p. 3386, §2. Amended by Stats.1981, c. 968, § 34.)

§ 54958. Application of chapter

The provisions of this chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law.

(Added by Stats.1953, c. 1588, p. 3271, § 1.)

§ 54959. Penalty for unlawful meeting

Each member of a legislative body who attends a meeting of such legislative body where action is taken in violation of any provision of this chapter, with knowledge of the fact that the meeting is in violation thereof, is guilty of a misdemeanor.

(Added by Stats.1961, c. 1671, p. 3638, § 5.)

§ 54960. Action to prevent violations or determine applicability of chapter

Any interested person may commence an action by mandamus, injunction or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body.

(Added by Stats.1961, c. 1671, p. 3638, § 6. Amended by Stats.1969, c. 494, p. 1106, § 2.)

§ 54960.1. Unlawful action by legislative body; action for mandamus or injunction; prerequisites

(a) Any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, 54954.6, or 54956 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, 54954.6, or 54956. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

The written demand shall be made within 30 days from the date the action was taken. Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action. If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires. Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, the expiration of the 30-day period to cure or correct, or not to cure or correct, within 15 days of or within 75 days from the date the challenged action was taken, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(c) An action taken that is alleged to have been taken in violation of Sections 54953, 54954.2, 54954.6, and 54956 shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, 54954.6, and 54956.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid, upon which a party has, in good faith, detrimentally relied.

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(4) The action taken was in connection with the collection of any tax.

(d) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, 54954.6, or 54956 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(e) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

(Added by Stats.1986, c. 641, § 9. Amended by Stats.1987, c. 1327, § 2; Stats.1992, c. 1234 (S.B.1977), § 3.)

§ 54960.5. Costs and attorney fees

A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960 or 54960.1 where it is found that a legislative body of the local agency has violated this chapter. The costs and fees shall be paid by the local agency and shall not become a personal liability of any public officer or employee of the local agency.

A court may award court costs and reasonable attorney fees to a defendant in any action brought pursuant to Section 54960 or 54960.1 where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

Added Stats 1975 ch 959 § 10; Amended Stats 1981 ch 968 § 35; Stats 1986 ch 641 § 10.

§ 54961. Use of facility allowing discrimination; applicability to local agencies

No local agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex. This section shall apply to every local agency as defined in Section 54951, 54951.1, or 54951.7.

(Added by Stats.1970, c. 383, p. 798, § 2. Amended by Stats.1981, c. 968, § 36.)

§ 54962. Prohibition against closed sessions except as expressly authorized

Except as expressly authorized by this chapter, or by Sections 32106 and 32155 of the Health and Safety Code as they apply to hospital districts, no closed session may be held by any legislative body of any local agency.

Added Stats 1987 ch 1320 § 6. Amended Stats 1988 ch 1346 sec 1, effective September 24, 1988.

APPENDIX D

REORGANIZATION OF DISTRICTS UNDER THE JURISDICTION OF DIFFERENT COUNTIES

In any reorganization action which involves territory in two or more counties under the jurisdiction of different county superintendents of schools, the requiring proceedings must take place in both counties, except for the following: (35520)

1. The sufficiency of any petition shall be determined jointly by the respective county superintendents. (35521)

2. Elections will be handled separately, but the particulars of the elections are to be established by joint action. (35522)

3. Public hearings may be conducted in each county or jointly in either county; however, any resulting recommendation by any of the county agencies can only be taken at or after a joint public hearing and the recommendations shall be made only after the tentative conclusions in each county have been sent to the officer/agency conducting the hearing in each of the other counties. (35523, 35524)

When a county committee selects an area for study for possible recommendation for a reorganization which includes territory of one or more school districts under the jurisdiction of another county, the county committee shall so notify the members of the county committee of such other county. Thereafter, the members of the county committee of such other county shall be notified by mail of each public hearing or meeting of the other county committee at least 10 days prior to the day of such hearing or meeting. (35723)

If plans and recommendations adopted by a county committee propose changes in the boundaries or status of school districts under the jurisdiction of the superintendent of any adjacent county, the county committee of each such adjacent county shall be requested in writing to concur with the plans and recommendations. The following procedures then apply:

1. If the county committee of an adjacent county so concurs, the concurrence shall accompany the recommendations transmitted to the State Board of Education.

2. If the county committee of an adjacent county fails to respond to the request for concurrence within 90 days of the date of the request, such failure shall be deemed to be a concurrence with the plans and recommendations.

3. If a county committee of an adjacent county does not concur with the plans and recommendations, it shall so notify the other county committee in writing and accompany the notification with plans and recommendations for the reorganization of school districts of its county, including territory that would be affected by the plans and recommendations of the other county committee. After 60 days from the notification of nonconcurrence, if the county committees are still unable to agree upon plans and recommendations for reorganization of the territory, either county committee, may submit plans and recommendations to the State Board of Education, and the Board may approve or reject the plans, in the same manner as other plans and recommendations. (35724)

LOS ANGELES COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

CRITERIA AFFECTING REORGANIZATION PROPOSALS

Proposal: _____

Policy Statement

- Education Code Section (EC) 35753 states that the State Board of Education (SBE) may approve proposals for the reorganization of districts if the SBE has determined, with respect to the proposal and the resulting districts, that all of the conditions under EC Section 35753 are substantially met.
- The Los Angeles County Committee on School District Organization (County Committee) has the option to disapprove the proposal, even if the criteria are substantially met, if it determines that the proposal would not be in the best overall interest for all those affected or if the County Committee determines there is not a compelling reason for the change.
- The County Committee may approve a proposal for the reorganization of school districts if it determines that it is not practical or possible to apply the criteria pursuant to EC Section 35753 literally, and that the circumstances with respect to the proposal provide an exceptional situation sufficient to justify approval of the proposal.

I. Criteria Required to be Considered by the County Committee

A. Education Code Section 35753

NOTE: Following each criterion is a list of considerations which may be used by the County Committee in determining if the criterion has been substantially met. Each reorganization proposal is unique, therefore, all considerations listed may not apply to specific proposals. Staff will use its discretion in determining which considerations to address in preparing reports and recommendations for the County Committee.

Criterion #1	Condition Substantially Met	
	Yes	No
The new districts will be adequate in terms of number of pupils enrolled.	☐	☐

CONSIDERATIONS:

• elementary school district	901
• high school district	301
• unified school district	1501

REVISED 5-6-92

The County Committee should consider the projected enrollment and the resulting increase/decline.

It is not necessary to meet the minimum requirements if the County Committee feels there are extenuating circumstances, i.e., geographical barriers, etc.

Criterion #2	Condition Substantially Met	
	Yes	No
The districts are each organized on the basis of a substantial community identity.	☐	☐

CONSIDERATIONS:

The County Committee should consider the following criteria:

- isolation
- geography
- distance between social centers
- distance between school centers
- topography
- weather
- community, school, and social ties and other circumstances peculiar to the area
- size and style of homes and similarity of architecture
- usage patterns of park and school facilities for recreation programs
- traffic patterns and public transportation
- geopolitical factors such as cities, zip codes, electoral districts, etc.
- neighborhood and regional shopping patterns

Criterion #3	Condition Substantially Met	
	Yes	No
The proposal will result in an equitable division of property and facilities of the original district or districts.	☐	☐

CONSIDERATIONS:

a. <u>All property, funds, and obligations, except real property and bonded indebtedness, (e.g., funds, cash on hand, monies due but uncollected, state apportionments).</u>

The County Committee will determine which of the criteria authorized under EC Section 35736 shall apply for dividing the property.

- assessed valuation
- revenue limit per pupil in each district
- average daily attendance (ADA)

The County Committee should consider the value and location of the school property and such other matters as may be deemed pertinent and equitable.

In reviewing the aspects of proposals dealing with school facilities, the County Committee should request long-range facilities plans from the districts affected. Those plans should include:

- demographic studies showing both current and projected student population data.
- development of maps showing census tracts, boundaries, current and proposed zoning and projected development.
- an evaluation and report of the utilization, capacity, and condition of existing facilities.
- development of a "comparison analysis" considering both existing and proposed divisions.

b. Real Property

The real property and personal property and fixtures normally situated there shall be the property of the district in which the real property is located.

c. Bonded Indebtedness

Provided for under EC Section 35570-35579.

NOTE: The County Committee may recommend, pursuant to EC Section 35565, to appoint a board of arbitrators to resolve any disputes between the governing boards of the affected school districts concerning the division of funds, property, or obligations.

Criterion #4	Condition Substantially Met	
	Yes	No
The reorganization of the districts will not promote racial or ethnic discrimination or segregation.	☐	☐

CONSIDERATIONS:

The County Committee should consider the effects of the following criteria (Title IV of the California Administrative Code Section 18573). Each of these items should be evaluated to determine whether any imbalance will be so disproportionate that realistically minority students will be isolated from other students and that all students will be deprived of an integrated educational experience:

- The number and percentage of pupils in each racial and ethnic group in the affected districts as proposed by the reorganization.
- The number and percentage of pupils in each racial and ethnic group of the schools of the districts affected.

- The number and percentage of pupils in each racial and ethnic group in the schools in the districts affected with those of other schools in adjacent areas of the districts affected.

- The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the total district, and in each school of the districts affected.

- The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts.

- The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools.

- The effect of the proposal on the duty of the governing board of each of the districts affected to adopt and implement a plan for the alleviation of segregation of minority pupils under Sections 90 through 101.

The County Committee should also consider:

- participation in extracurricular activities;

- equipment of affected school districts;

- state of facilities of affected school districts;

- perception of staff, administrators, and community regarding whether schools are segregated; and,

- racial/ethnic make up of staff and administration.

Criterion #5	Condition Substantially Met	
	Yes	No
The proposed reorganization will not result in any substantial increase in costs to the state.	☐	☐

CONSIDERATIONS:

Pursuant to Title V of the California Administrative Code Section 18573, each district affected will be adequate in terms of financial ability if:

- the revenue limit per ADA of the proposed district does not vary from the revenue limit per ADA in all of the affected districts by more than 15 percent; or,

- the proposal does not increase costs to the State for the affected territory by more than 10 percent.

The following factors should also be considered in evaluating this criterion:

- the state's portion of the cost of the revenue limit of the district that is losing the students;
- the state's portion of the cost of the revenue limit of the district that is gaining the students;
- whether the state will contribute additional funding for the gaining district's revenue limit;
- other state special or categorical programs and the increased state costs if students transferring would qualify in the gaining district and not in the losing district;
- the additional costs to the state if special or categorical program costs are higher in the gaining district; and,
- the effect on the district's home to school and special education transportation cost and state reimbursement.

Criterion #6	Condition Substantially Met	
	Yes	No
The proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue or promote sound education performance in those districts.	☐	☐

CONSIDERATIONS:

The County Committee must look at the effect of the proposal on all school districts affected by the reorganization. The County Committee should look at district-wide programs and the school site programs in schools not a part of the proposal that will be adversely affected by the proposal.

Although it is difficult to accurately predict the changes that would occur in the educational program as a result of district reorganization, there are indicators that would be helpful to consider in making a decision on a reorganization.

Schools participate in Program Quality Reviews and Western Association of Schools and Colleges (WASC) accreditation reviews. These program reviews can be examined in concert with quantitative data such as the School Accountability Report Card (Proposition 98) produced by the district and the school performance report produced by the State Board of Education (SBE). The California Assessment Program (CAP) has been a source of detailed information on student achievement for a number of years. CAP reports provide statewide comparison of school performance plus comparison to "similar" schools.

While past performance does not always predict future achievements, the academic record of a district should be considered when making a decision about reorganization.

Criterion #7	Condition Substantially Met	
	Yes	No
The proposed reorganization will not result in a significant increase in school housing costs.	☐	☐

CONSIDERATIONS:

The County Committee should evaluate the affected districts' school housing needs and the long-range facilities plans for meeting the current and projected facilities requirements including:

- local bonding capacity (potential);
- developer fee income;
- surplus property and asset management;
- eligibility for State School Building Aid;
- deferred maintenance, modernization, and reconstruction needs; and,
- the portion of costs for additional housing to be assumed by state and local programs.

Criterion #8	Condition Substantially Met	
	Yes	No
The proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to an adjoining district.	☐	☐

CONSIDERATIONS:

The County Committee should analyze the rationale presented in the petition for the transfer. The County Committee should at least consider whether increased property values might be the primary reason for the petition. The county tax assessor's office or local real estate boards should be consulted concerning the potential impact on property values in the area proposed for transfer or unification.

Criterion #9	Condition Substantially Met	
	Yes	No
The proposed reorganization will not negatively affect the fiscal management or fiscal status of the proposed district or any existing district affected by the proposed reorganization.	☐	☐

CONSIDERATIONS:

The County Committee should look at the percentage of lost revenue to total revenue of the affected districts. It should also look at the viability of a new school district being able to operate a meaningful educational curriculum with its anticipated revenue.

The County Committee should review the financial status of the district for several preceding years and evaluate the financial impact of the reorganization on each of the districts affected. The County Committee might also review other sources of financial data including the annual audit report prepared by the districts' independent auditor.

B. EC Section 35707

The County Committee must report whether any of the following, in the opinion of the County committee, would be true regarding the proposed reorganization.

	True	Not True
The proposed reorganization would comply with the provision of EC Section 35753.	☐	☐

	True	Not True
It would not adversely affect the school district organization of the county.	☐	☐

	True	Not True
It would be compatible with any master plan submitted by the County Committee to the State Board of Education.	☐	☐

II. County Committee Decision/Recommendation

Within 120 days of the commencement of the first public hearing on the petition, the County Committee shall recommend approval or disapproval of a petition for unification of school districts, or for the division of the territory of an existing school district into two or more separate school districts, as the petition may be augmented; or, shall approve or disapprove a petition for the transfer of territory, as the petition may be augmented.

A. To Approve the Proposal

- **MUST** meet all the criteria of the Education Code.

  Certain criteria may be waived, and the County Committee may approve a proposal, if the County Committee determines circumstances with respect to the petition or proposal provide an exceptional situation sufficient to justify approval.

B. To Disapprove the Proposal

- In making its decision, the County Committee should consider:
  - Is there a compelling reason necessitating the reorganization?
  - Is the reorganization proposal improving the effectiveness and efficiency of the delivery of educational services?
  - Is the reorganization in the best interest of all those concerned?

Except for petitions for the transfer of territory, the County Committee shall forward its recommendation to the SBE.

Decision/Recommendation

The County Committee:

☐ **Approves the proposed reorganization**

☐ **Disapproves the proposed reorganization**

III. Determining the Area of Election

STEP 1

- Identify all affected school districts.

_____

_____

_____

_____

STEP 2

- Is there a compelling interest to reduce the area of election? Yes ☐ No ☐

- Is such a reduction necessary to further the purpose of the proposed reorganization? Yes ☐ No ☐

Factors constituting a compelling interest:

- Avoid having the votes of those most vitally concerned with the reorganization (people in the transfer area) overwhelmed by a much larger vote of only incidentally interested voters in the other areas.
- Preserve the concept of master planning and the current master plan.
- Limit the cost and burden of an election where the number of votes in the territory is negligible compared to the number in the losing or receiving district.

STEP 3

If, in Step 2, the County Committee determines there is a compelling interest to reduce the area of election, it should then determine if that interest would be outweighed by any substantial interest of the voters who would be disenfranchised by the proposed reduction. **Any reduced area of election should be expanded to the extent of identified substantial interests.**

Examples of interests that may be present and substantial include:

- ☐ Adverse impact on racial composition of territory excluded.
- ☐ Imposition of a substantial debt that impacts the area excluded.
- ☐ Withdrawal of students resulting in school closure.
- ☐ Serious environmental impact on excluded territory.

Recommended Area of Election	
Area Description	**Registered Voters**

APPENDIX F

STATE BOARD OF EQUALIZATION

SCHEDULE OF PROCESSING FEES

Section 54902.5, Government Code
April 1, 1993

1. **GENERAL APPLICATION.** The fees set forth in this schedule shall apply to all statements filed pursuant to Sections 54900 to 54902 of the Government Code. Statements must be filed by January 1 if they are to be reflected on the next tax roll. The provisions and definitions given in Sections 2 and 3 below are to help you compute the fees and serve as guidelines to insure acceptance of maps and legal descriptions. Fees shall accompany the statements. Mail statements, maps and fees to, Tax Area Services Section, State Board of Equalization, MIC: 59, P.O. Box 1713, Sacramento, CA 95812-1713, 450 N Street, MIC: 59, Sacramento, CA 95814.

2. **DESCRIPTIONS AND MAPS.** After our initial processing has been completed, all filed documents are microfilmed and then destroyed. Any document that will not produce a readable photographic image must be rejected and returned to the sender for replacement.

(a) Every description must be self-sufficient within itself and without the necessity of reference to any extraneous document. When a description refers to a deed of record, the deed should be used only as a secondary reference.

(b) The use of secondary references in the legal description is strongly discouraged. When a description refers to a deed of record, the deed should be used only as a secondary reference and a copy of the Assessor's map with the Assessor's Parcel Number must be provided.

(c) When writing a metes and bounds description of a contiguous annexation, all details of the contiguous portion(s) of the boundary may be omitted. The points of departure from the existing boundary must be clearly established.

(d) A specific parcel description in sectionalized land (e.g., The SW 1/4 of Section 22, T1N, R1W) is permissible without a metes and bounds description of the perimeter boundary.

(e) A parcel description making reference only to a subdivision or a lot within a subdivision is not acceptable, unless all dimensions needed to plot the boundaries are given on an accompanying plat. The relationship of lot lines with street right-of-ways must be clearly indicated.

(f) Every map must clearly indicate all existing streets, roads and highways within and adjacent to the subject territory, together with the current names of these thoroughfares.

(g) Every map shall bear a scale and a north point. If a reduced map is to be filed, the original map must have a graphic scale affixed to it before the reduction is made. All lettering and numbers on the reduced map must be legible.

(h) The point of beginning of the legal description must be shown on the map. The boundaries of the subject territory must be distinctively shown on the map without obliterating any essential geographic or political features. The use of yellow lines to highlight the boundaries is urged, as this color photographs as a light gray.

(i) All maps must be professionally drawn or copied. Rough sketches of maps or plats will not be accepted.

3. **DEFINITIONS AND SPECIAL FEE PROVISIONS.**

(a) "Single area" means any separate geographical area regardless of ownership. A lot, a subdivision or a township could each be a "Single area". For the purpose of this schedule a geographical area which is divided

into two or more parcels by a roadway, railroad right-of-way, river or stream shall be considered a "Single area". A "Single area" does not include two areas that are contiguous to an existing boundary or a city or district but not to each other.

(b) "Zones" include temporary zones in highway lighting districts, other zones, improvement districts, or any other sub-units of a city or parent district.

(c) "Concurrent transaction" includes any combination of formations, annexations and withdrawals of a single area under one resolution or ordinance. The fee shall be according to the fee schedule, Section 4; there is no additional costs for the number of transactions involved. If there is more than one resolution or ordinance, each single area must be separately computed under the fee schedule, Section 4.

(d) The fees in Section 4 of this schedule are based on the concept that any given action is confined to a single county. If more than one county is involved, add $200.00 for the second and each additional county involved.

(e) The processing fee shall accompany each statement.

(f) If the January 1st statutory deadline for filing statements is extended by a special validating act, the fees in Section 4 shall be doubled.

(g) If an annexed or detached territory comprises an entire city, district, or zone without affecting the existence of that city, district or zone, the total processing fee shall be $250.00.

(h) Payment of the fee for the formation of a city or district may be deferred until that city or district receives its first revenue (Ch. 512, Stats. 1978). Each deferment shall be subject to a $25 billing charge.

IMPORTANT: IF YOU HAVE AN UNUSUAL SITUATION OR ARE UNSURE, DO NOT GUESS AT THE FEE, CALL (916) 322-7185 OR WRITE TAX AREA SERVICES SECTION, MIC: 59, P.O. BOX 1713, SACRAMENTO, CA 95812-1713, FOR HELP TO DETERMINE THE CORRECT FEE.

4. **PROCESSING FEES.** See Section 3 for definitions and modifications of the fees under certain circumstances. A separate fee must be computed for each ordinance or resolution.

Single Area Transactions

ACREAGE	FEE
0 - 20	$ 200
21 - 100	$ 400
101 - 600	$ 600
601 - 1500	$ 900
1501 - 3000	$1,200
3001 - 6000	$1,600
over 6000	$2,000
Consolidation per district or zone	$ 250
Entire district transaction	$ 250
Dissolution or Name change	$ 0

VL-52-0504F

B.O.E Filing No:_____

Statement of Boundary Change

County: County No. Effective Date:
Conducting Authority: Resolution No.:
Short Title: LAFCO Res. No.:

Type of Action: ( ) Annexation ( ) Detachment ( ) Reorganization
( ) Formation ( ) Dissolution ( ) Consolidation
( ) Incorporation ( ) Other:

Affected City/District Type of Change

Affected Territory is legally: ( ) Inhabited ( ) Uninhabited ( ) Developed ( ) Undeveloped

Acreage:_____ Number of Areas_____

Est. Population:_____ (City Boundary Changes Only)

The affected territory will/will not be taxed for existing bonded indebtedness or contractual obligations as set forth in the resolution; the terms and conditions are:

Enclosed are the following items required at the time of filing:

___Fees $_____ ___Certificate of Completion

___Legal Description ___Map(s) and supporting Documents

___Resolution of Conducting Authority

___County Auditor's Letter of TRA Assignment (Consolidated Counties)

City Boundary Changes Only

___Map of limiting addresses (2 copies) ___ Vicinity Maps (2)

___Alphabetical list of all streets within the affected area to include beginning and ending street numbers

Board of Equalization will acknowledge receipt of filing to:

Name_____

Title_____

Agency_____

Street_____

City_____

Telephone (___) _____

APPENDIX G

CALIFORNIA STATE BOARD OF EDUCATION

ENVIRONMENTAL CHECKLIST FORM

I. BACKGROUND

1. Name of Applicant: _____

2. Address of Applicant: _____

3. Telephone Number of Applicant: ( ) _____

4. Date Checklist Completed: _____

5. Name of Project: _____

II. ENVIRONMENTAL IMPACTS

(Please explain all "Yes" and "Maybe" answers on separate sheets)

1. EARTH: Will this proposal result in:	YES	MAYBE	NO
a. Unstable earth condition or in changes in geologic substructures?			
b. Disruptions, displacements, compaction or over-covering of the soil?			
c. Change in topography or ground surface relief features?			
d. The destruction, covering or modification of any unique geologic or physical features?			
e. Any increase in wind or water erosion of soils, either on or off the site?			
f. Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake? . . .			
g. Exposure of people or property to geologic hazards such as earthquakes, landslides, mudslides, ground failure, or similar hazards?			
2. AIR: Will the proposal result in:			
a. Substantial air emissions or deterioration of ambient air quality?			

	YES	MAYBE	NO
b. The creation of objectionable odors?.			
c. Alteration of air movement, moisture or temperature, or any change in climate, either locally or regionally?			
3. WATER: Will the proposal result in:			
a. Changes in currents, or the course or direction of water movements, in either marine or fresh waters?			
b. Changes in absorption rates, drainage patterns or the rate and amount of surface water runoff? . .			
c. Alterations to the course or flow of flood waters?.			
d. Change in the amount of surface water in any water body?			
e. Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or turbidity?			
f. Alteration of the direction or rate of flow of ground waters?.			
g. Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?.			
h. Substantial reduction in the amount of water otherwise available for public water supplies?. . .			
i. Exposure of people or property to water related hazards such as flooding or tidal waves?.			
4. PLANT LIFE: Will the proposal result in:			
a. Change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, and aquatic plants)?.			
b. Reduction of the numbers of any unique, rare or endangered species of plants?.			
c. Introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species?.			
d. Reduction in acreage of any agricultural crop?. . .			

	YES	MAYBE	NO
5. ANIMAL LIFE: Will the proposal result in:			
a. Change in the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms or insects)?			
b. Reduction of the numbers of any unique, rare or endangered species of animals?			
c. Introduction of new species of animals into an area, or result in a barrier to the migration or movement of animals?			
d. Deterioration to existing fish or wildlife? . . .			
6. NOISE: Will the proposal result in:			
a. Increases in existing noise levels?			
b. Exposure of people to severe noise levels? . . .			
7. LIGHT AND GLARE: Will the proposal produce new new light or glare?			
8. LAND USE: Will the proposal result in a substantial alteration of the present land use in the area?			
9. NATURAL RESOURCES: Will the proposal result in:			
a. Increase in the rate of use of any natural resources?			
b. Substantial depletion of any nonrenewable natural resource?			
10. RISK OF UPSET: Will the proposal result in:			
a. A risk of an explosion or the release of hazardous substances (including, but not limited to, oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions?			
b. Possible interference with an emergency response plan or an emergency evacuation plan? . . .			
11. POPULATION: Will the proposal alter the location, distribution, density or growth rate of the human population in the area?			

	YES	MAYBE	NO
12. HOUSING: Will the proposal affect existing housing, or create a demand for additional housing?.			
13. TRANSPORTATION/CIRCULATION: Will the proposal result in:			
a. Generation of substantial additional vehicular movement?			
b. Effects on existing parking facilities, or demand for new parking?.			
c. Substantial impact upon existing transportation systems?			
d. Alterations to present patterns of circulation or movement of people and/or goods?.			
e. Alterations to waterborne, rail or air traffic? . . .			
f. Increase in traffic hazards to motor vehicles, bicyclists or pedestrians?.			
14. PUBLIC SERVICES: Will the proposal have an affect upon, or result in a need for new or altered governmental services in any of the following areas:			
a. Fire protection?.			
b. Police protection?.			
c. Schools?			
d. Parks or other recreational facilities?			
e. Maintenance of public facilities, including roads?. .			
f. Other governmental services?.			
15. ENERGY: Will the proposal result in:			
a. Use of substantial amounts of fuel or energy?			
b. Substantial increase in demand upon existing sources of energy, or require the development of new sources of energy?			
16. UTILITIES: Will the proposal result in a need for new systems, or stubstantial alterations to the following utilities:			
a. Power or natural gas?			

	YES	MAYBE	NO
b. Communications systems?			
c. Water?.			
d. Sewer or septic tanks?.			
e. Storm water drainage?			
f. Solid waste and disposal?			
17. HUMAN HEALTH: Will the proposal result in:			
a. Creation of any health hazard or potential health hazard (excluding mental health)?.			
b. Exposure of people to potential health hazards?			
18. AESTHETICS: Will the proposal result in the obstruction of any scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to public view?			
19. RECREATION: Will the proposal result in an impact upon the quality or quantity of existing recreational opportunities?.			
20. CULTURAL RESOURCES:			
a. Will the proposal result in the alteration of or the destruction of a prehistoric or historic archeological site?			
b. Will the proposal result in adverse physical or aesthetic effects to a prehistoric or historic building structure, or object?.			
c. Does the proposal have the potential to cause a physical change which would affect unique ethnic cultural values?.			
d. Will the proposal restrict existing religious or sacred uses within the potential impact area?.			
21. MANDATORY FINDINGS OF SIGNIFICANCE:			
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?.			

	YES	MAYBE	NO
b. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time while long-term impacts will endure well into the future.)			
c. Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environment is significant.)			
d. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			

III. DETERMINATION

On the basis of this initial evaluation:

☐ I find the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A NEGATIVE DECLARATION WILL BE PREPARED.

☐ I find the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

(Date)

(Signature)

FOR CALIFORNIA STATE BOARD OF EDUCATION
(Lead Agency)

APPENDIX H

NOTICE OF EXEMPTION

TO: ___ County Clerk, County of: _____

_____

_____

_____

___ Office of Planning
1400 Tenth Street
Sacramento, CA 95814

FROM: _____

_____

_____

1. Project Title: _____
2. Project Location - Specific: _____
3. (a) Project Location - City: _____
   (b) Project Location - County: _____
4. Description of nature, purpose, and beneficiaries of Project: _____

   _____
5. Name of Public Agency approving project: _____
6. Name of Person or Agency carrying out project: _____
7. Exempt status: (Check one)
   (a) _____ Ministerial project.
   (b) _____ Not a project.
   (c) _____ Emergency Project.
   (d) _____ Categorical Exemption. State type and class number: _____

   _____
   (e) _____ Declared Emergency.
   (f) _____ Statutory Exemption. State Code section number: _____
   (g) _____ Other. Explanation: _____
8. Reason why project was exempt: _____

   _____
9. Contact Person: _____
   Telephone: _____
10. Attach Preliminary Exemption Assessment (Form "A") before filing.

Date Received for Filing: _____
(Clerk Stamp Here)

_____
Signature (Lead Agency Representative)

_____
Title

(Lead Agency Representative Signs)

APPENDIX I

NOTICE OF DETERMINATION

TO: ___ County Clerk, County of: _____

_____

_____

_____

FROM: _____

_____

_____

___ Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814
(File also with OPR if the project requires state approval.)

SUBJECT: Filing of Notice of Determination in Compliance with Section 21152 of the Public Resources Code.

_____
Project Title

_____
State Clearinghouse Number (If submitted to Clearinghouse) | Contact Person | Telephone Number

_____
Project Location (Include County)

_____
Project Description

_____

This is to certify that the _____
(Lead Agency or Responsible Agency)
approved the above described project on _____ and made the following determinations:

1. The project ____ will ____ will not have a significant effect on the environment.
2. ____ An Environmental Impact Report was prepared and certified for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.
   ____ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.
   ____ A Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.

THIS IS TO CERTIFY THAT THE FINAL EIR (WITH COMMENTS AND RESPONSES) OR NEGATIVE DECLARATION AND RECORD OF PROJECT APPROVAL IS AVAILABLE TO THE GENERAL PUBLIC AND MAY BE EXAMINED AT:

_____

3. Mitigation measures ___ were ___ were not made a condition of the approval of the project.
4. A Statement of Overriding Considerations ___ was ___ was not adopted for this project.
5. Findings ___ were ___ were not made pursuant to the provisions of CEQA.

_____ _____
Date | Signature

_____ _____
Date Received for Filing | Title

CERTIFICATE OF FEE EXEMPTION

De Minimis Impact Finding

Project Title/Location (include county):

Name and Address of Project Applicant:

Project Description:

Findings of Exemption:

1. An Initial Study has been prepared by the Lead Agency to evaluate the project's effects on wildlife resources, if any.
2. The Lead Agency hereby finds that there is no evidence before the Office of Education that the project will have any potential for adverse effect on the environment.
3. The project ____ *will ____ will not result in any changes to the following resources:
   (A) Riparian land, rivers, streams, watercourses and wetlands;
   (B) Native and non-native plant life and the soil required to sustain habitat for fish and wildlife;
   (C) Rare and unique plant life and ecological communities dependant on plant life;
   (D) Listed threatened and endangered plants and animals and the habitat in which they are believed to reside;
   (E) All species listed as protected or identified for special management in the Fish and Game Code, the Public Resources Code, the Water Code or regulations adopted thereunder;
   (F) All marine and terrestrial species subject to the jurisdiction of the Department of Fish and Game and the ecological communities in which they reside; and
   (G) All air and water resources, the degradation of which will individually or cumulatively result in a loss of biological diversity among the plants and animals residing in that air and water.

   *If the project will result in changes to any of these resources, the Office of Education has, on the basis of substantial evidence, "rebutted" the presumption of adverse effect to these resources. A statement in support of this rebuttal is attached.

CERTIFICATION:

I hereby certify that the Lead Agency has made the above finding(s) of fact and based upon the Initial Study and the hearing record the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

_____

Lead Agency Representative

Title:_____

Lead Agency:_____

Date:_____

APPENDIX K

"TEMECULA AREA" UNIFIED SCHOOL DISTRICT

AGENDA

ORGANIZATIONAL MEETING

December 6, 1988

6:00 p.m.
Temecula Middle School Library
41951 Moraga Road
Temecula, CA

OPENING PROCEDURES

1. Call to Order by the County Superintendent of Schools Time: _____

2. Pledge of Allegiance

3. Attendance

   a. Governing Board Members

      David Eurich
      Mary Jo Helmeke
      Joan Sparkman
      Walt Swickla
      Rosie Vanderhaak

   b. Guests and Visitors

   c. Staff Members

4. Introductory Remarks and Swearing-In Ceremony

   Administration of the Oath of Office by Dr. Dale S. Holmes to the following board members:

      David Eurich
      Mary Jo Helmeke
      Joan Sparkman
      Walt Swickla
      Rosie Vanderhaak

5. Public Hearings

   Any person wishing to speak to any item on the agenda, or any other relevant matter, will be heard at this time.

Action Items

6. Naming of District

It was moved by _____ and seconded by _____

That the newly formed unified district be named_____.

Eurich _____ Helmeke _____ Sparkman _____ Swickla _____
Vanderhaak _____

Motion carried, lost.

7. Election of President

It was moved by _____ and seconded by _____

That _____ be elected President of the newly formed unified school district for the remainder of school year 1988-89.

Eurich _____ Helmeke _____ Sparkman _____ Swickla _____
Vanderhaak _____

Motio. carried, lost.

8. Election of Clerk

It was moved by _____ and seconded by _____

That _____ be elected Clerk of the newly formed unified school district for the remainder of school year 1988-89.

Eurich _____ Helmeke _____ Sparkman _____ Swickla _____
Vanderhaak _____

Motion carried, lost.

9. Election of Representative for County Committee

It was moved by _____ and seconded by _____

That _____ be elected as representative for the county committee for the newly formed unified school district for the remainder of school year 1988-89.

Eurich _____ Helmeke _____ Sparkman _____ Swickla _____
Vanderhaak _____

Motion carried, lost.

10. Setting of Regular Meeting Days and Time, and Location

It was moved by _____ and seconded by _____

That the regular meetings of the _____ Unified School District will be held as follows:

_____ day of week
_____ time
_____ location

Eurich _____ Helmeke _____ Sparkman _____ Swickla _____
Vanderhaak _____

Motion carried, lost.

11. Information Item

Discussion of matters related to organization of the _____ Unified School District.

Closed Session - to discuss personnel items

Adjournment. Time: _____